

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

NORMAN BROWN, et al, )  
                        )  
Plaintiffs,         )  
                        )  
vs.                   ) Case No. 17-CV-4082  
                        )  
ANNE L. PRECYTHE, et )  
al,                    )  
                        )  
Defendants.         )

CONFIDENTIAL DEPOSITION OF JENNIFER ZAMKUS,  
produced, sworn and examined on the 13th day of  
December, 2017, between the hours of nine o'clock in  
the forenoon and six o'clock in the afternoon of that  
day, at the offices of Husch Blackwell, LLP,  
235 E. High Street, Jefferson City, Missouri, before  
Kim D. Murphy, Certified Court Reporter, within and for  
the State of Missouri.

## A P P E A R A N C E S

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## I N D E X

Direct Examination by Mr. Ault

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14 Court Reporter:  
Kim D. Murphy, CCR  
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1 IT IS HEREBY STIPULATED AND AGREED, by and  
2 between counsel for the Plaintiffs and counsel for the  
3 Defendants, that this deposition may be taken in  
4 shorthand by Kim D. Murphy, CCR, and afterwards  
5 transcribed into typewriting; and the signature of the  
6 witness is expressly waived.

\* \* \* \*

8 JENNIFER ZAMKUS,  
9 of lawful age, produced, sworn and examined on behalf  
10 of the Plaintiffs, deposes and says:

## DIRECT EXAMINATION

## 12 QUESTIONS BY AULT

13 Q. Well, good morning, Ms. Zamkus.

14 A. Good morning.

15 Q. Am I saying that right?

16                   A.       Yes.

17 Q. Okay. My name is Jordan Ault. I represent  
18 the Plaintiffs in this action. And as I mentioned, I'm  
19 a member of a group of attorneys. I am the newest of  
20 the group of attorneys, so we'll get through this as  
21 best we can.

22 But I'll be basically asking you some  
23 questions today to learn a little bit about your role  
24 on the parole board, the processes and procedures that  
25 you go through, and there will be a few specific

1 documents that I'll pull out and will want to talk with  
2 you.

3           **A. Okay.**

4           Q. Before we begin, can you state your name,  
5 state and spell your name for the record.

6           **A. Jennifer Zamkus. J-e-n-n-i-f-e-r,**  
7 **Z-a-m-k-u-s.**

8           Q. And have you ever been deposed like this in  
9 the past?

10          **A. I have.**

11          Q. How many times?

12          **A. A handful.**

13          Q. Okay. And have you testified at trial in  
14 the past?

15          **A. I have. Not in this role.**

16          Q. I appreciate that.

17                 I know this isn't your first time, but I  
18 still would like to go through a few of the ground  
19 rules. I'll go through them quickly since you've been  
20 through this.

21                 The court reporter is to my right, to your  
22 left, and she will be taking down everything that I ask  
23 and everything that you answer. Because of that, it's  
24 important that we not talk over each other. I know  
25 that happens normally in conversation, but if you could

1 ask allow me to finish a question before you answer,  
2 I'd appreciate that. I'll do my best to extend the  
3 same courtesy to you. I have a tendency to talk a  
4 little fast, so feel free to yell at me.

5 Your answers must be audible. The record  
6 won't -- the record looks a little muddy if the court  
7 reporter takes down nods of the head.

8 The biggest instruction I give is, if I ask  
9 a bad question -- and I'm sure I will ask a bad  
10 question -- and you don't understand it, stop and let  
11 me know, and I'll do my best to ask it in a better way.  
12 But if I ask a question that you answer, it will be  
13 understood that you understood what I was asking; is  
14 that fair?

15 **A. Yes.**

16 Q. I don't think this will be a full day, but  
17 we're on your schedule. I like to take a break every  
18 hour, but if you ever need a break, just let me know.

19 Is there any reason why you can't testify  
20 honestly today?

21 **A. There is not.**

22 Q. Any reason why your memory might be clouded  
23 today?

24 **A. No.**

25 Q. Other than your attorneys -- and I should

1 preface that -- at no point in the deposition today do  
2 I want to know about any conversations that you have  
3 had with your counsel. I want to make that clear.

4 Other than conversations you've had with  
5 your counsel, is there anything that you've done to  
6 prepare for the deposition today?

7 **A. I looked at the specific cases to see if I  
voted on them. That's it.**

9 Q. When you say "specific cases," do you mean  
10 the individual plaintiffs in this action?

11 **A. Yes.**

12 Q. And had you voted on any of them?

13 **A. On two of them.**

14 Q. Out of curiosity, do you recall which two  
15 you voted on?

16 **A. I do not.**

17 Q. Did you oversee any of the parole hearings  
18 for the individual plaintiffs in this case?

19 **A. I did not.**

20 Q. I thought that was the case, but I wanted  
21 to be sure.

22 Other than that, have you reviewed any  
23 documents to prepare for the deposition today?

24 **A. I have not.**

25 Q. And did you bring any documents with you?

1           **A. I did not.**

2           Q. Anyone else that you spoke with other than  
3 your attorneys about the deposition today?

4           **A. Other than I'm leaving for a deposition,**  
5           **no.**

6           Q. What is your date of birth?

7           **A. September 2nd, 1971.**

8           Q. Do you go by any name other than Jennifer?

9           **A. Jen.**

10          Q. And you live here in Jefferson City, I  
11 assume?

12          **A. I do.**

13          Q. And are you currently married?

14          **A. I am.**

15          Q. And your spouse's name?

16          **A. Jason Zamkus.**

17          Q. Okay. And your spouse's occupation?

18          **A. He is an attorney-lobbyist.**

19          Q. A few questions that I ask everyone -- and  
20 I apologize, they're somewhat personal -- have you ever  
21 pled guilty of or pled guilty a felony?

22          **A. I have not.**

23          Q. Have you ever been convicted or pled guilty  
24 of a crime that involved fraud or dishonesty?

25          **A. No.**

1 Q. It's always easier when those are the  
2 answers.

3 A. No.

4 Q. I'm going to ask the court reporter to mark  
5 this as Exhibit 1.

(Deposition Exhibit No. 1 was marked for identification.)

8 BY MR. AULT:

9 Q. I've handed you a document that was  
10 produced in this case.

11 Do you recognize this document?

12 A. I do.

13 Q. I assume this is your resume or CV; is that  
14 true?

15 A. Yes.

16 Q. It is it up to date?

17 A. It is not.

18 Q. Do you recall when you prepared this  
19 resumé?

20           A. I prepared this resumé when I was seeking  
21 the appointment to become a parole board member.

22 Q. That would be?

23           A. I mean, I updated this resumé. I mean, I  
24 prepared it. It's been a working document over the  
25 years.

1           Q.     Fair enough.  Fair to say this version  
2     would be from some time in 2015?

3           **A.     2014.**

4           Q.     I want to get a little bit --

5           **A.     No, you're right, 2015 is correct. Yes.**

6           Q.     I want to get a little bit into your  
7     background.

8                         I assume you graduated high school.

9           **A.     I did.**

10          Q.     Was that here in Jefferson City?

11          **A.     Farmington.**

12          Q.     And then you served in the United States  
13     Air Force from 1989 to 1993?

14          **A.     Yes.**

15          Q.     And you continued in the Air National Guard  
16     through the 1990s, correct?

17          **A.     Correct.**

18          Q.     Thank you very much for your service.

19          **A.     Thank you.**

20          Q.     I assume you attended Lincoln University  
21     while you were serving in the National Guard; is that  
22     correct?

23          **A.     Yes.**

24          Q.     You received a Bachelor's of Science in  
25     criminal justice?

1           **A. I did.**

2           Q. And you continued to get your Master's  
3 degree from Lincoln University, correct?

4           **A. I did. I did a portion of that through**  
5 **CMSU. I don't know what it's called now. It was**  
6 **called CMSU back then, through Warrensburg. The**  
7 **criminal justice portion was through CMSU.**

8           Q. I was going to ask, did you receive two  
9 separate Master's degrees in sociology and criminal  
10 justice? Or just one degree?

11          **A. It was one degree.**

12          Q. Can you tell me about the course of study  
13 in your Master's degree?

14          **A. The criminal justice portion, it was**  
15 **criminal justice administration, so it looked into some**  
16 **civil law. Criminal.**

17                 **The sociology was a little bit more about**  
18 **research. How to conduct research. Make sure that**  
19 **you're considering, kinds of, all factors in the**  
20 **research.**

21          Q. Just a few questions about that, during  
22 that course of study was there any focus on psychology?

23          **A. No.**

24          Q. Any focus on adolescent development or  
25 child psychology in any way?

1           **A.     No.**

2           Q.     Since you received your Master's degree  
3           from Lincoln University, and the other institution that  
4           you mentioned, have you sought any other formal  
5           education? Any other degrees, for example?

6           **A.     No.**

7           Q.     Any special certifications or licenses in  
8           your work?

9           **A.     No.**

10          Q.     So looking back to your resumé, after you  
11         received your Master's degree, you went to work for the  
12         Missouri Department of Corrections, correct?

13          **A.     Correct.**

14          Q.     What was your role -- it looks like you had  
15         a few roles, so let's go through them.

16                 The first seems to be correctional services  
17         trainee and Probation and Parole Officer I.

18          **A.     Yes.**

19          Q.     How long did you hold that position?

20          **A.     For about two or three years, I'd say.**

21          Q.     As the probation and parole officer I, did  
22         you participate in any parole hearings?

23          **A.     Rarely. Only as observation.**

24                 Now, I held -- I was both an institutional  
25         parole officer and then a field officer here in

1     Jefferson City, so when you're a field officer you  
2     don't get involved in parole hearings.

3                 Q.     What is the job of a field officer?

4                 A.     That's the person who works with the  
5     offender in the community to help make sure that they  
6     have the resources they need to be successful in the  
7     community; to help report back to either the board or  
8     the court as to how the offender is doing in the  
9     community; if they're violating conditions, then what's  
10    the next step.

11                Q.     Okay. So I assume you're working with  
12    individuals after they've been incarcerated and after  
13    they're released?

14                A.     Yes.

15                Q.     I appreciate that clarification.

16                You then went on to hold the position of  
17    Investigator II?

18                A.     Yes.

19                Q.     What did you do in that role?

20                A.     I investigated criminal investigations  
21    within the institution. Whether it was weapons, drug  
22    offenses, murder.

23                And then we also do death investigations.

24                Q.     I assume those investigations all involved  
25    offenders that were housed in the correctional centers,

1       correct?

2           **A.**    Correct. Well, and they also involved  
3       staff. If staff was having a relationship with an  
4       offender that is also a criminal violation.

5           Q.     That's fair. That makes sense.

6                   And then from there you went on to work as  
7       a corrections caseworker, correct?

8           **A.**    Correct.

9           Q.     What did you do in that role?

10          **A.**    I reviewed conduct violations. If an  
11       offender violates an institutional rule, then a  
12       correctional officer writes a conduct violation, it's  
13       sent to the caseworker, the caseworker determines  
14       whether or not what sanctions they get. If they get a  
15       segregation restriction, what have you.

16                   I completed classification reviews of  
17       offenders to make sure that they were at the  
18       appropriate correctional facility. You know, if  
19       there's a change in the offender status, maybe they get  
20       a new charge, that's going to increase their  
21       classification level.

22                   I completed work release, reviews,  
23       recommending for or against work release.

24          Q.     Okay. That's helpful. I appreciate that.

25                   Through your roles as either as

1      Investigator II or corrections caseworker, did you have  
2      any role in probation -- I'm sorry -- in parole  
3      hearings?

4           **A.     I did not.**

5           Q.     In 2005 you left the Department of  
6      Corrections to begin working for Department of Social  
7      Services, correct?

8           **A.     Correct.**

9           Q.     It looks like your role there was more in  
10     human relations?

11          **A.     It was.**

12          Q.     And then you returned to the Department of  
13     Corrections in 2014, correct?

14          **A.     Correct.**

15          Q.     And from 2014 to 2015 your role was the  
16     human resources director for the Department of  
17     Corrections, correct?

18          **A.     Yes.**

19          Q.     Who did you report to in that role?

20          **A.     Carrie Collins.**

21          Q.     And what role did Ms. Collins have?

22          **A.     She's the division director for the**  
23     **division of human services.**

24          Q.     I assume in your position of human  
25     resources director you were not involved in parole

1 hearings, or in that process in any way?

2           **A. No.**

3           Q. From there -- well, let me ask this: Do  
4 you still hold that job?

5           **A. I do not.**

6           Q. So --

7           **A. I had to resign from that position to get  
8 my appointment.**

9           Q. So your position currently with the  
10 Probation and Parole board is the only employment that  
11 you hold?

12          **A. It is.**

13          Q. Okay. How long have you held the position  
14 with Probation and Parole?

15          **A. Since November of 2015.**

16          Q. Was there some type of application process  
17 that you went through?

18           I understand it was an appointment, but  
19 what did that process look like?

20          **A. There's an online application that you have  
21 to complete, through the governor's office, that you  
22 have to fill out. Fill out the rest of their  
23 application. Background information. They do a  
24 background investigation.**

25          Q. So this -- I assume you went through that

1 application process, correct?

2           **A. I did.**

3           Q. This was a position that you sought?

4           **A. I did.**

5           Q. In November of 2015, or just before or just  
6 after that, did you receive any training to prepare you  
7 for your new position on the board?

8           **A. As soon as I got on the board, I started  
9 meeting with the chairman, the board operations  
10 manager, and they sat down and reviewed policy and  
11 procedure with me. Reviewed the tools, the risk  
12 assessment tools that we use.**

13           **Reviewed files. You know, went through  
14 each type of file. I had to do observation for -- I  
15 think it was either for two or three weeks, with each  
16 of the different board members and the board chairman,  
17 of parole hearings, and kind of the motivational  
18 interviewing.**

19           **We also received training on the risk  
20 assessment tools, the salient factor score.**

21           **During board meetings I know we received a  
22 couple of additional trainings. I can't think of them.**

23           **And then shortly after I came onto the  
24 board, I went to Colorado to the National Institute of  
25 Corrections for new parole board member training where**

1       **we received training about evidence-based practices,**  
2       **making informed and ethical decisions, the role of**  
3       **parole. It was a week-long training. There was all**  
4       **kinds of different topics covered.**

5                 Q. I appreciate that. It sounds like it was a  
6       busy few weeks for you.

7                 Who was the chairperson of the board at the  
8       time?

9                 A. **Ellis McSwain.**

10                Q. And who was the -- I think you said board  
11       operations manager?

12               A. **Kelly Dills.**

13               Q. You mentioned a few terms such as salient  
14       factor scores that I'll get into later. But a few  
15       questions, you said that you spent two to three weeks  
16       observing each of the board members; is that correct?

17               A. **Correct.**

18               Q. So I assume that means that you would  
19       attend parole hearings with each of the board members  
20       during this training?

21               A. **I did. And during a portion of that, once**  
22       **I'd been there a little bit, they started having me do**  
23       **hearings and provided me feedback.**

24               Q. Okay. You mentioned the term motivational  
25       interviewing.

1           **A. Yes.**

2           Q. You don't need to get too in-depth, but can  
3 you give me the elevator speech of what motivational  
4 interviewing means?

5           **A. It's working with the offender. Asking**  
6 **questions in a way that they see where their need for**  
7 **change is. They recognize that.**

8           Instead of, I mean, if you sit there and  
9 lecture to an offender during a parole hearing, it's  
10 going to go in one ear and out the other. You want  
11 them to be a part of seeing the positives and the  
12 negatives, recognizing that.

13           Because so many of these guys and gals come  
14 in not liking themselves, and having positives. But  
15 you're having to ask them things that they're  
16 embarrassed about. So you want them to see both of it,  
17 and not bleed their heart, but make them motivated for  
18 change. You know, it shouldn't be an interrogation, so  
19 to speak.

20           Q. That makes a lot of sense. I've seen the  
21 term in the documents I've reviewed in this case.

22           Have all the correct board members gone  
23 through training related to motivational interviewing?

24           **A. I think so. But I can't speak definitively**  
25 **about that. I know the board members, prior to my**

1      **arrival, did. I think Gary would have, because Gary**  
2      **and I came in together.**

3                    **Paul would not because he's brand new.**

4      Q.     Gary is Gary Dusenberry, right?

5      A.     **Yes.**

6      Q.     And Paul's last name?

7      A.     **Fitzwater.**

8      Q.     Thank you.

9                    The other term I want to ask about is  
10       evidence-based practices. And I see a loft references  
11       to that in the documents that have been produced.

12                  Can you give me a short explanation for  
13       what that term means?

14      A.     **Well, it's kind of like our salient factor**  
15       **score. When it was developed, it looked at research**  
16       **that points to factors that can suggest risk or not**  
17       **risk. So we're not just pulling things out of the air,**  
18       **so to speak. We're actually looking at factors that**  
19       **evidence has supported this adjust risk or not.**

20      Q.     I see. When you say risk, I assume you  
21       mean the risk that an offender would pose if released  
22       from incarceration back into society?

23      A.     **Correct.**

24      Q.     You had some legal studies, it sounds like,  
25       in getting your Master's degree, correct?

1           **A.     Correct.**

2           Q.     Since you joined the board, has there been  
3       any specific training regarding either constitutional  
4       law, or state statutes, or anything like that?

5           **A.     Well, when I returned to corrections, of**  
6       **course I had some initial constitutional law training.**

7       **You know, we review state statutes when they come in.**  
8       **I wouldn't say we're trained on them. You need to read**  
9       **them and ask questions if we don't understand them.**

10          Q.     Have you received any training related to  
11       adolescent development or adolescent psychology?

12          **A.     I have not.**

13          Q.     Do you hold a title on the board currently?

14          **A.     I do.**

15          Q.     And what is that?

16          **A.     Vice-chairman.**

17          Q.     And when did you rise to the position of  
18       vice-chair?

19          **A.     Oh, goodness. That, I think it would be**  
20       **around May.**

21          Q.     May of 2017?

22          **A.     Yes. It's been very recent. It might have**  
23       **been even -- yeah, I'm thinking around May.**

24          Q.     Do you have any additional duties in the  
25       position of vice-chair?

1           A. Not really. I'm more there as a backup.  
2       When Ken, our current chair is gone, if he's on  
3       vacation, or has to be out for an extended period of  
4       time, then I'm available there to sign personnel  
5       decisions, make decisions regarding adjustments on  
6       calendars.

7           Q. That makes sense. I assume, based on that,  
8       you haven't had any specific training related to your  
9       position as vice-chair?

10          A. No.

11          Q. Do you continue to receive ongoing training  
12       in your position as a board member?

13          A. I do.

14          Q. Can you describe that?

15          A. It's training that we sign up for. You  
16       know, I've gone to the Missouri Reentry conference that  
17       had different sessions on reentry and community  
18       partnerships.

19           I went to the American Corrections  
20       Association conference that talked a lot about -- this  
21       year, the big topic was addressing opioid addiction,  
22       which, obviously, that's everywhere.

23           And, of course, I have regular departmental  
24       training. You know, our civil rights and diversity  
25       updates. I've had some additional -- I think I'm at,

1       **like, 48 hours for the year.**

2           Q.     Okay.  Is there a mandatory amount of hours  
3     per year that board members have to receive in  
4     training?

5           A.     There's -- it was recently increased by the  
6     department director.  All employees have to receive  
7     40 hours.  I'm not sure what it was prior to that.  
8     I've always pretty much received 40.  I generally -- I  
9     used to do training, I used to be in HR, so I'm very  
10    pro training.

11          Q.     And it holds a special place in your heart?

12          A.     Yes.

13          Q.     And I have some older materials, but you  
14     seem to top the list as the person that was receiving  
15     the most.

16           Have you received any board training  
17     specifically related to juvenile life without parole  
18     issues, such as Senate Bill 590, or recent Supreme  
19     Court cases?

20          A.     I wouldn't say training.  We, of course,  
21     reviewed the statute.  Reviewed the information.  
22     Reviewed the additional factors that we needed to begin  
23     considering in considering for juvenile life without  
24     parole offenders.

25          Q.     How often does the parole board meet?  The

1 entire board?

2           **A.**    Generally, once a month. There's been a  
3 rare occasion that we haven't been able to, but we  
4 generally meet at least once a month. Sometimes twice,  
5 if we have an additional training schedule. That's  
6 also rare.

7           Q.     You're officed here in Jefferson City,  
8 correct?

9           **A.**    Correct.

10          Q.     Out kind of by Chick-fil-A, right?

11          **A.**    Right.

12          Q.     I was trying to figure out where your  
13 office was.

14          **A.**    It's right behind that strip mall.

15          Q.     Do all the board members have offices in  
16 that building?

17          **A.**    They do.

18          Q.     And is that where these monthly meetings  
19 take place?

20          **A.**    That is.

21          Q.     At the monthly meetings, I assume all board  
22 members attend unless they're on vacation or whatever?

23          **A.**    Correct.

24          Q.     Does anyone else attend the monthly board  
25 meetings?

1           A.     The parole board analysts do. And usually  
2       the institutional regional administrator, Michelle  
3       Kasak. Because she works with our Probation and Parole  
4       staff that work inside the institutions.

5                   Occasionally we'll have the chief state  
6       supervisor if there's something new to present. But  
7       she'll only be there for a portion of the meeting. And  
8       of course we have our board secretary. The secretary  
9       isn't the appropriate title anymore. You know what I'm  
10      talking about. She takes our meeting minutes.

11           Q.     I do. Most of the board members still  
12      refer it to the secretary.

13           A.     I used to be a secretary so I don't take  
14      offense to it.

15           Q.     How many board members are currently  
16      serving?

17           A.     Six.

18           Q.     How many parole analysts are employed by  
19      the Department of Corrections; if you know?

20           A.     Well, I can count real quick. I think  
21      there's six analysts, and then there's a lead analyst,  
22      who kind of has the role of board operations manager  
23      now. That's Steve Mueller.

24           Q.     Okay. And we spoke with Mr. Mueller a few  
25      weeks ago.

1           Do all of the parole board analysts attend  
2       the board meetings?

3           **A. They do.**

4           Q. You mentioned the institutional regional  
5       administrator.

6           **A. Yes.**

7           Q. What are the roles of that position?

8           **A. Well, she manages all the staff inside the**  
9       **institutions. So the whole state she's responsible**  
10      **for.**

11           She communicates any updates to the --  
12       she's there to provide them assistance if there's an  
13       issue within the prison. You know, like, for example,  
14       you have an offender who just -- we just got notified  
15       that he's got jail credit time, so that moves up his  
16       conditional release date, and he should have already  
17       been out. So she'll have to deal with situations like  
18       that.

19           Now, the reason we have her there is  
20       because when we make any changes, or we have any issues  
21       with her staff, then she's there to be able to go back  
22       and communicate it, because her staff directly supports  
23       the job of the board.

24           Q. I understand. Sounds like a big job.

25           How long do these board meetings typically

1 last.

2           **A.** Oh, I can't say there's a typical. I mean,  
3 it might be an hour. If we have training it might be  
4 seven hours.

5           **Q.** Fair to say some board meetings you're  
6 discussing what's going on and some there's specific  
7 training scheduled?

8           **A.** Correct. And we try to do a little bit of  
9 training. Even if it's something from the community to  
10 come in and talk to us about something new they're  
11 working on. Like, we had a KC NoVA come in. I don't  
12 know if you heard of KC NoVA. They came in and did a  
13 presentation. And so we try to have something like  
14 that at every board meeting.

15           **Q.** Okay. You said it's the board secretary,  
16 or whatever the correct term is, keeps minutes from the  
17 meetings?

18           **A.** Yes.

19           **Q.** Are the meetings recorded?

20           **A.** No. I mean, outside of her taking meeting  
21 minutes.

22           **Q.** And those minutes, are they then  
23 distributed to the board members at the following the  
24 meeting?

25           **A.** They are.

1           Q.     Are there -- I understand that there's a  
2     main parole board office here in Jefferson City -- are  
3     there also field offices throughout the state?

4           **A.     Yes.**

5           Q.     And who is in those field offices?

6           **A.     That's our Probation & Parole staff who**  
7     **supervise offenders in the community.**

8           Q.     I'd like to talk about some of the U.S.  
9     Supreme Court cases.

10           Are you familiar with the case Miller  
11     versus Alabama?

12           **A.     No.**

13           Q.     Are you familiar with a case Montgomery  
14     versus Louisiana?

15           **A.     I know I reviewed it, but to tell you about**  
16     **it right now, I could not.**

17           Q.     During any of the training sessions, or, I  
18     guess really in any other aspect of your job, are you  
19     presented with legal decisions, either from the  
20     Missouri Supreme Court, or the United States Supreme  
21     Court, or other courts, and are expected to read those  
22     decisions?

23           **A.     Occasionally we receive emails, yeah. And**  
24     **we should be reading our emails. It's not very often,**  
25     **but we did receive emails with regard to the cases**

1       **involved in the juvenile life without parole. And I**  
2       **reviewed them back then. I haven't since.**

3           Q.     It's been a while?

4           **A.     It has.**

5           Q.     And I assume there is a -- the Missouri  
6       Department of Corrections has legal counsel, correct?

7           **A.     Yes.**

8           Q.     And I assume sometimes you turn to that  
9       legal counsel for an explanation of the decisions that  
10      are handed down; is that right?

11          **A.     Not individual board members. The board as**  
12       **a whole would. And that would generally be either**  
13       **through the chairman or through Steve Mueller.**

14          Q.     Are you familiar with what we've referred  
15      to as Senate Bill 590 or Missouri Senate Bill 590?

16          **A.     Again, I reviewed it.**

17          Q.     Generally you're aware, though, that it has  
18      an impact on juvenile life without parole offenders,  
19      correct?

20          **A.     Correct.**

21          Q.     Are you familiar with factors that it sets  
22      forth to be considered during a parole hearing?

23          **A.     Yes.**

24          Q.     Did you personally provide any input to the  
25      Legislature as a draft of Senate Bill 590?

1           **A. I did not.**

2           Q. Do you know whether anyone on the parole  
3         board was involved in lobbying, or in some other  
4         capacity, to provide input to the Legislature relating  
5         to Senate Bill 590.

6           **A. No. And I think that probably would have**  
7         **occurred before my time on the parole board if it would**  
8         **have happened.**

9           Q. Understood. I know you said you received  
10        some emails that would have contained the Supreme Court  
11        decision that I talked about.

12           Do you recall any specific training related  
13        to those cases?

14           **A. No.**

15           Q. Do you recall any specific training related  
16        to SB 590?

17           **A. No. Outside of our discussions in the**  
18         **board meeting, making sure that we were all aware of**  
19         **the factors that needed to be considered, discussing --**  
20         **making sure that we document those factors, no.**

21           Q. And I want to dig into that a little bit.

22           So you recall during these monthly board  
23        meetings discussions about Senate Bill 590?

24           **A. I do.**

25           Q. Who presented that?

1           **A. It might have been Kelly Dills.**

2           Q. And I should back up. One of the  
3 instructions that I failed to give you at the beginning  
4 of the deposition. Some of that's questions go back  
5 years. And if you don't know the answer, "I don't  
6 know" is a perfectly acceptable answer. I'm not going  
7 to push you on anything that you don't remember.

8           **A. Generally our board meetings are pretty  
9 relaxed. We're all kind of talking and chatting.**

10          Q. Do you recall, for example, did Ms. Dills,  
11 or whoever that presented this, was it a single  
12 presentation? Or was it a topic that was brought up  
13 again over and over at multiple meetings?

14          **A. I know we discussed it at least at a couple  
15 of meetings. I couldn't tell you specifically how  
16 many.**

17          Q. And it sounds like you discussed the  
18 factors that were included in Senate Bill 590?

19          **A. Yes.**

20          Q. And you discussed, I think you said,  
21 questions that you would need to ask to address those  
22 factors?

23          **A. Not specific questions, but making sure  
24 that we covered questions that would get us to that  
25 information.**

1           Q. I see. Did you review any documents  
2 related to Senate Bill 590?

3           **A. Outside of the email that they sent that**  
4 **had the senate bill, we reviewed that. And I thought**  
5 **they sent -- or maybe there was just a link to the**  
6 **cases that were involved.**

7           Q. Let me clarify my question a little bit. I  
8 think I asked a bad question.

9           After Senate Bill 590, did the paperwork or  
10 the forms that you used in your role as a parole board  
11 member change to address the new factors?

12          **A. Oh, okay. Yeah. We developed a form to**  
13 **document the information that addressed those factors.**  
14 **Like, efforts towards rehabilitation, so that we could**  
15 **document that on the form.**

16          Q. I see. I'm going to hand you a document  
17 and ask that it be marked as Zamkus Exhibit 2.

18           (Deposition Exhibit No. 2 was marked for  
19 identification.)

20 BY MR. AULT:

21          Q. Does this document look familiar?

22          **A. It does not.**

23          Q. I'll represent that we received a number of  
24 documents that were produced that appear to be memos  
25 that were posted at different correctional

1 institutions.

2           **A. Okay.**

3           Q. Like, for example, this document says to  
4 all JCCC offenders.

5                 What does JCCC stand for?

6           **A. Jefferson City Correctional Center.**

7           Q. I assumed that was the case.

8                 And it appears to be a memo to offenders  
9 involving Senate Bill 590. Did you have any role in  
10 drafting the language for this document?

11           **A. No, I did not.**

12           Q. Do you recall any discussion about this  
13 documents or similar documents being posted in  
14 correctional centers?

15           **A. I knew that the information had been posted  
16 in correctional centers that juvenile life without  
17 parole offenders were now eligible for parole hearings.  
18 I didn't know any specifics.**

19           Q. You didn't have any role in the publication  
20 of that information in the correctional centers?

21           **A. No. And a parole board member wouldn't.  
22 This would be, you know, the correctional centers is  
23 under a different division. This would be the Division  
24 of Adult Institutions. And they would take care of  
25 communicating in the manner that they normally would**

1       **communicate any other changes.**

2           Q.     That is helpful. Thank you.

3                   I'd like to shift the focus a little bit

4       now to actually discuss the parole hearings themselves.

5       What I'd like to do is start with some broader

6       questions, and have you walk me through the process,

7       and then probably circle back and dig into some more

8       specific questions about certain aspects of process if

9       that works for you.

10          **A. It does.**

11          Q.     I understand this is a broad question, but

12       generally when you are assigned to a parole hearing,

13       how do you prepare for that hearing?

14          **A. Well, I'll just say on a typical hearing,**  
15       **we receive a hearing docket.**

16                   Let me back up. We have a calendar. A  
17       monthly calendar. That's how we know where we're  
18       going. Our analyst actually provides the monthly  
19       docket. They print out the monthly docket. They have  
20       all the files.

21                   And so as soon as we get in the room we  
22       start reviewing files in order.

23          Q.     When you say "get in the room," would that  
24       be the room in specific correctional centers that you  
25       are going to?

1           **A. It depends. We do both video parole**  
2       **hearings and hearings onsite. So "in the room" would**  
3       **be either at the correctional facility, or out in one**  
4       **of our hearing rooms in Central Office.**

5           Q.     Okay.

6           **A. One of the two buildings.**

7           Q.     The video hearings that you do, if you are  
8       conducting a hearing by video, are you in the parole  
9       board office building here in Jefferson City?

10          **A. We have hearing rooms, either at our main**  
11       **building. And we also have, across the street, we have**  
12       **another building where our command center is and**  
13       **there's a hearing room there.**

14          Q.     Okay. How often in a given week or month  
15       do you travel to correctional centers for these  
16       hearings?

17          **A. It just depends. Sometimes it's once a**  
18       **week. If we have a trip, it might be two or three days**  
19       **that week. It depends. You know, it changes. Because**  
20       **it's up to the offender whether or not they get an**  
21       **in-person hearing.**

22          Q.     Generally, can you give me a percentage of  
23       the number of hearings that you do via videoconference  
24       rather than doing life hearings?

25          **A. I wouldn't know a percentage. It's greatly**

1       **reduced how many live hearings we do. The offenders**  
2       **have gotten pretty comfortable with video parole**  
3       **hearings.**

4           Q.     Okay. I made the drive to Farmington and  
5     back yesterday.

6           **A.     Yes.**

7           Q.     So I admire you for making that drive  
8     multiple times. It is not fun to make it there and  
9     back in a day.

10           So when you say the analyst provides the  
11     information, it's either going to be in the room where  
12     the hearing takes place in the room at the correctional  
13     center or the command center at your office building?

14           **A.     Right. Now, with cases where we have**  
15       **victims present, I actually get the information prior.**

16           Q.     Okay. If a victim is present when do you  
17     receive the information for the hearing?

18           **A.     Generally, a week prior. Sometimes even**  
19       **longer. And occasionally victims won't want to be**  
20       **present, but they'll want to give their statement to a**  
21       **parole board member. So I might get the file sooner**  
22       **because I have to call them.**

23           Q.     Are there some times that you meet in  
24     person, or via phone with a victim, or a victim's  
25     representative, prior to a hearing taking place?

1           **A. You can. Both. I never had a victim ask**  
2       **to see me in person prior. I have spoken on the phone**  
3       **with a victim before.**

4           Q. So in those situations where a victim is  
5       present you receive the information in advance?

6           **A. Yes.**

7           Q. Understanding that schedules change  
8       sometimes, do you always endeavor to review that parole  
9       file prior to the hearing?

10          **A. I do.**

11          Q. And in situations where there is no victim  
12       present, your first exposure to the parole file for  
13       that hearing is the morning of the hearing, correct?

14          **A. It is.**

15          Q. And I'll just ask about you, do you set  
16       aside time at the beginning of the day to review all of  
17       the parole files before the hearings?

18          **A. I don't review them all at the beginning of**  
19       **the day. I review them as we go along with each case.**  
20       **That way it's fresh in my mind. And I have my computer**  
21       **there so I can look up, if I have questions, or want**  
22       **some additional information, I can use my computer.**

23          Q. And what information can you access from  
24       your computer?

25          **A. All kinds of information. If the person**

1   was on probation, I can access their field officer's  
2   road notes. See if they had dirty urinalysis. If they  
3   were arrested.

4                 Inside the prison, I can access their  
5   conduct violations. Their classification score. Where  
6   they're located. Their work. Any presentence  
7   information.

8                 Q.   The information that you've just described  
9   that you can access on the computer that you have, is  
10   most or all that information also included in the  
11   parole file that you get?

12                A.   Well, it's -- our parole report is more of  
13   a summary of it. You know. Like, if someone had a  
14   violation while they were on supervision, well, it's  
15   going to talk about how they did in the community. But  
16   you can actually go into the road notes and find out  
17   more about how they did. What their attitude was.  
18   Because you can't put all of that into a report.

19                Q.   Right. What generally is included in a  
20   prehearing report that you get?

21                A.   Okay. Of course you're going to have  
22   sentencing information, county information, date of  
23   offense, sentencing date. Pre-sentence offense. If  
24   they were given the opportunity at probation. What  
25   they did while on probation. Why their probation

1       **failed.**

2                  Any other opportunities they were given.

3       'Cause sometimes these individuals are given two or

4       three different opportunities of probation.

5                  You're given juvenile history. Most often

6       that's self-reported.

7                  You're given their adult criminal history.

8       Any sex-offending history, and analysis of any at

9       assaultive or aggressive behaviors.

10                 A statement about the offender's view

11       towards authority and law enforcement.

12                 Their medical needs. Their mental health

13       needs. Their substance abuse history.

14                 Their criminogenic needs, as far as do they

15       have issues with their social life. Or, you know, kind

16       of what they like to do in the community when they're

17       incarcerated.

18                 Their conduct. Any programs. Their family

19       history. Any current family community support. Their

20       home plan. Their employment plan.

21                 And I'm sure I've left something out.

22       Q.      That was surprisingly thorough. You've

23       seen a few of these, I assume?

24       A.      I used to write them.

25       Q.      And that gets me to a question: Who puts

1       these together?

2                     **A. The institutional parole officer. The**  
3                     **Probation and Parole officers I and II's that actually**  
4                     **work within the correctional facility.**

5                     Q. And I assume that's the institutional  
6                     parole office? I see IPO quite a bit?

7                     **A. Yes.**

8                     Q. What's the difference between an IPO I and  
9                     an IPO II?

10                  **A. Probably just length of time in the**  
11                  **position.**

12                  Q. So an IPO starts as I and graduates up to  
13                  II?

14                  **A. I think that's how it works.**

15                  **It was kind of, like, when you saw my**  
16                  **résumé where I was corrections services training two,**  
17                  **you had to do that automatically for a year, and then**  
18                  **you went to Probation and Parole officer I.**

19                  Q. Okay. I couldn't figure out if you  
20                  progressed from one to two. I probably could have put  
21                  it together on my own. I appreciate that.

22                  Sometimes do the prehearing reports have a  
23                  victim impact statement?

24                  **A. Yes. It's usually an older statement.**

25                  **It's usually taken from the presentencing information.**

1       Or they call it presentencing information. Now they  
2       call it sentencing and recommendation report. PSI or  
3       SAR. It's the same thing.

4           Q. What steps does an IPO take to prepare the  
5       prehearing report?

6           A. Well, they, of course, should review the  
7       file. And their file is going to have everything in  
8       it.

9                   It's going to have the information from the  
10       prison, as well as sentencing and judgment, anything  
11       that comes from the courts, as well as anything that  
12       comes from Probation and Parole.

13                  So they should review all that information  
14       in preparing for the prehearing interview. They have a  
15       worksheet that they will go over. And some of that  
16       information on the worksheet will come from file  
17       material, will come from the computer, but they also  
18       have an interview.

19                  And they're supposed to be doing  
20       motivational interviewing as well with the offender.

21                  They should also be contacting other staff  
22       within the institution to see how the offender is  
23       actually doing. Because we don't want to just go on  
24       conduct violations. You know, because there are  
25       different reasons for why someone's either gotten

1     conduct violations, and they're not really doing that  
2     bad. Or why they haven't gotten any conduct  
3     violations, but yet they are doing that bad. So we  
4     want a real review of how they are doing inside.

5                 Q. That makes sense. Like you said, you have  
6     prepared these before?

7                 A. I have.

8                 Q. How long does that process take?

9     Understanding that no two offenders are probably  
10    identical.

11                A. Well, yeah. And you have to remember, it's  
12    been probably 20 years since I did that. And there has  
13    been a lot of changes since that time. I mean, even  
14    the worksheet that the Probation and Parole officers  
15    use are substantially longer than what I used back  
16    then.

17                Q. Okay.

18                A. Your type of offense. Your offender is  
19    going to dictate how long it is.

20                For example, out at Jefferson City  
21    Correctional Center, they generally have a lower  
22    caseload, because it takes longer to prepare one of  
23    those reports, because you're dealing with offenders  
24    who have a long history. You know. And you're often  
25    dealing with more serious offenses. You know,

1       murder-second, murder-first. You know, so it takes  
2       much longer to prepare a hearing like that.

3                 Whereas if you're at Algoa, you know, you  
4       might be dealing with a parole violator. It doesn't  
5       take much time to prepare that report. 'Cause you've  
6       already got the report pretty much prepared. You're  
7       just looking to update their information, what they did  
8       while they were on parole.

9                 Q.     Okay. One of the things you mentioned in  
10      the report was juvenile history. Where does that come  
11      from?

12                 A.     It's generally self-reported. Occasionally  
13      we receive it from other states.

14                 Q.     And guess I should be clear, when we talk  
15      about juvenile history, are you talking about criminal  
16      history as a juvenile?

17                 A.     Yes. We generally ask them if they had any  
18      issues in school. Truancy, that kind of thing. If  
19      they spent any time in the Division of Youth Services.  
20      If so, why. It's not specific dates, specific amount  
21      of time, anything like that. It's just seeing whether  
22      or not their concerns started as a juvenile.

23                 Q.     I understand.

24                 If an individual had an issue, say if they  
25      were target of abuse as a child, would that information

1 we included if that was self-reported?

2           **A.** Yes. That's going to be included in a  
3 different section. It's generally in the mental health  
4 section or the social and family history.

5           Q. We've seen a few of these. And I don't  
6 necessarily need to show them to you or mark them as  
7 exhibits, it's just some general questions.

8           I saw a section for recidivism. Do you  
9 know where that information comes from? Or how that  
10 information is developed?

11          **A.** Part of that information comes from looking  
12 at the types of crime that they've committed. Their  
13 conduct in the institution.

14          You might have someone who's in for  
15 property crimes, but keeps getting involved in assaults  
16 in the institution.

17          Some of it is there are questions in the  
18 interview to address that. And we -- the staff  
19 directly asks offenders if they feel they have an issue  
20 with anger. How they view law enforcement. Because  
21 that often goes towards aggressiveness.

22          Q. You mentioned conduct violations, and those  
23 are included in the prehearing report?

24          **A.** Yes.

25          Q. And I assume they play some role in the

1 decision you make?

2           **A. They do.**

3           Q. Do you ever investigate a conduct  
4 investigation and figure out why the violation took  
5 place?

6           A. We'll talk to the offender as well. I  
7 often, if I have a question about a conduct violation,  
8 I'll go into the computer and look. Because I have  
9 access to the whole conduct violation. From when the  
10 offender was initially interviewed, what their  
11 statement was at that time, what their statement was  
12 during the disciplinary hearing.

13           So I'll go in and look at that if I have a  
14 question. And then we'll obviously ask the offender.

15           Q. So that may be something that's not  
16 included in the prehearing report but you have access  
17 to in the computer?

18           A. Yes.

19           Q. When you walk in, is the prehearing report  
20 the only information that is physically handed to you  
21 for the hearing?

22           A. It depends on the file. How long we've had  
23 the file. We're transitioning our files to paperless  
24 files. We have something called File Down, that we're  
25 trying to transition to, where everything's going to be

1       in that. Our goal is to have everything in that. Even  
2       our voting in that.

3                  Most often, I will at least have sentencing  
4       and judgment documents. The prehearing report. Any  
5       prior board action taken. Any revocation orders. A  
6       face sheet. And a face sheet is -- that kind of tells  
7       all about the offender in the institution, and then  
8       tells their sentencing information.

9                  Q.     Okay. That's helpful. I've seen  
10      references to something called restorative justice  
11      comparative hours. What does that mean?

12                 A.    We have many restorative justice programs  
13      in our facilities. And all of them are a little  
14      different. Defendants get hours for the activities  
15      they participate in. Programs they participate in.  
16      Actions they've taken to help kind of provide  
17      restoration to the community.

18                 They can be developing coloring books for  
19      children. They could be working in community gardens.  
20      Some of the hours in Puppies in Parole count towards  
21      restorative justice. There's a number of things.  
22      Knitting. They do knitting activities. They do a lot  
23      of great activities inside the institution.

24                 Q.     So basically that shows that they're using  
25      their time for something productive?

1           **A. Yes.**

2           Q. Or to improve themselves?

3           **A. Correct. And we generally ask them what**  
4           **their specific activity was.**

5           Q. Do all prehearing reports contain a  
6 recommendation?

7           **A. They do.**

8           Q. And who completes the recommendation?

9           **A. The institutional parole officer who**  
10          **developed the report.**

11          Q. Do you ever -- strike that.

12           Does the institutional parole office that  
13 developed the report, are they present at the parole  
14 hearings?

15          **A. Occasionally. The only time they would be**  
16          **present is if there's victims. And that's because we**  
17          **need them to be able to assist in escorting the**  
18          **victims, in setting between the victims and the**  
19          **offender, and that kind of thing.**

20          Q. Is there ever a situation where you  
21 disagree with the decision recommendation by the IPO?

22          **A. Yes.**

23          Q. When that happens, do you ever speak with  
24 the IPO about the recommendation?

25          **A. I have once or twice. Usually, I don't. I**

1 mean, usually we look at their recommendation. We  
2 consider their recommendation. But mainly we're going  
3 off what we would normally consider. And what, you  
4 know, we have a different frame than the institutional  
5 parole officer.

6 Q. Right. The institutional parole officer  
7 is, basically their job is to provide you with  
8 information to make your decision, correct?

9 A. Correct.

10 Q. And then you consider very different  
11 factors in making your decision?

12 A. We consider some of the same factors. But  
13 overall we're considering if we release this  
14 individual, you know, what is their risk to re-offend?  
15 Are they -- do they appear to be prepared for  
16 supervision in the community?

17 Q. Let me ask a few more questions about  
18 prehearing reports and we'll be at a good place for a  
19 break.

20 Do you always read the prehearing reports  
21 prior to the actual hearings?

22 A. I do.

23 Q. Do you ever discuss the prehearing reports  
24 with other board members or other individuals that are  
25 present at the hearing?

1           **A. Yes.**

2           Q. And what does that look like? What -- you  
3 tell me. Why do you have those discussions?

4           **A. We'll point out information in there**  
5   occasionally. You know, if there's a factor that is  
6 leaning us to a certain decision, we might discuss  
7 that. You know, if the offender's behavior was really  
8 violent, we might discuss that. If we have concerns  
9 about their mental health, we might discuss that.

10          Q. Do the offenders have access to the  
11 prehearing reports?

12          **A. They do not.**

13          Q. So the offenders never see their prehearing  
14 reports?

15          **A. They do not.**

16           MR. AULT: We've been going about an hour.  
17 Do you want to take maybe a short five to 10-minute  
18 break?

19           (A break was taken.)

20           (Deposition Exhibit No. 3 was marked for  
21 identification.)

22 BY MR. AULT:

23          Q. Ms. Zamkus, have you seen this document  
24 before?

25          **A. I have.**

1 Q. Can you tell me what it is?

2 A. Our policy and procedure on prehearing  
3 reports.

4 Q. Fair to say that this would be the policy  
5 that governs everything that goes into the prehearing  
6 reports that we just spoke about?

7 A. Yes.

8 Q. Okay. Who creates this manual?

9 A. I know that there's a work group who  
10 creates the manual. But there's a lot of different  
11 ways that updates and changes can come into it.

12 Q. I have one question. If you look at the  
13 second page, Section H -- and I'm just not familiar  
14 with this terminology where it says, "guideline  
15 matrixes" -- can you describe what that means?

16 A. There are grids that -- several different  
17 grids actually used -- to come up with guideline dates.  
18 And I'll back up in a minute here.

19 The grids will look at the type of offense,  
20 you know, A, B, C, D. E now. And then they'll look at  
21 the salient factor score. So it would have different  
22 ranges.

23 So, like, based on someone with a good  
24 salient factor score, with a C felony, who got a  
25 ten-year sentence, this was -- this would be their

1 guideline date.

2 Now, what a guideline date is, is a number  
3 of months that we've come up with. That typically  
4 someone with this background, this information, doing  
5 this specific way in the institution, this type of  
6 sentence, this is when we might consider releasing  
7 them. We don't have to. It's just a guideline.

8 Then we have guideline ranges which are  
9 also included one that matrixes. It's low to a high  
10 range.

11 And these dates are also dates that have  
12 research. Our research unit, the department's research  
13 unit comes into play with helping us analyze those, and  
14 provide statistics, and that kind of thing.

15 Q. That's a very good explanation. I  
16 appreciate that. So basically these guideline dates  
17 are suggestions, but offenders can be released before  
18 or after those dates based on other factors?

19 A. Correct.

20 Q. We've talked about salient scores. Do you  
21 know how a salient score is -- or salient factor score,  
22 how it is created?

23 A. Part of it is just the institutional parole  
24 officer reviewing their file. Because some of that  
25 stuff is just age of the offender. You can get that

1       **from the file.**

2                   **Some of the other stuff is actually talking**  
3       **to the offender. Because you have, like, escape**  
4       **history in there. Vocational training in there.**

5           Q.     Okay.

6           **A.     So it's a combination of file review and**  
7       **discussion with the offender.**

8           Q.     Is that salient factor score included in  
9       the prehearing reports?

10          **A.     It is.**

11          Q.     It is a numerical value on a certain range?

12          **A.     It is.**

13          Q.     Do you know what the range is?

14          **A.     Oh, goodness. Not off the top of my head.**  
15       **Anything negative, obviously, is not a good salient**  
16       **factor score. We go from a negative score to a**  
17       **positive score. So, like, a zero would be an average**  
18       **score.**

19          Q.     Okay. So I want to make sure I understand.  
20       A negative score would probably harm the offender's  
21       chance of getting parole, a positive score might make  
22       it more likely?

23          **A.     It won't harm their chances. A negative**  
24       **score is going to give them a worse guideline date.**

25          Q.     That makes sense.

1                   How much weight do you give to the salient  
2       factor score in preparing or conducting a parole  
3       hearing?

4                   **A. I definitely look at it, review it.**

5       **Because it is one of those evidence-based rules that we**  
6       **have developed. I don't go by it a hundred percent.**  
7       **You know. You can consider different factors. You**  
8       **know.**

9                   Q. That makes sense.

10                  Was there any change or amendment to  
11       prehearing reports to integrate the factors set forth  
12       in Senate Bill 590?

13                  **A. There was.**

14                  Q. And can you describe those changes?

15                  A. You know, I couldn't speak directly to  
16       those changes. It would have to be our institutional  
17       regional administrator to speak more to those. The  
18       analysts and the institutional RA worked one that  
19       closer.

20                  Q. Who holds the title of institutional  
21       regional administrator?

22                  **A. Michelle Kasak.**

23                  Q. How do you spell her last name?

24                  **A. K-a-s-a-k.**

25                  **And you'll find she's extremely**

1       **knowledgeable.** She was my mentor when I was an intern  
2       **years ago.**

3           Q.     What is the Diagnostic Center report?

4           A.     That is a report that is completed at the  
5       diagnostic centers when an offender initially gets  
6       incarcerated. It's completed by a corrections  
7       caseworker. And it's all under the Division of Adult  
8       Institutions.

9                   So the Division of Probation and Parole has  
10      nothing to do with that report other than the  
11      opportunity to review it.

12           Q.     So in the parole hearing process there is  
13      one board member that conducts each hearing, correct?

14           A.     We don't conduct each and every hearing.  
15      There's three members present. There's a panel -- a  
16      hearing panel. And the hearing panel is made up of a  
17      parole hearing analyst, the local supervisor, and the  
18      parole board member. And we rotate doing interviews.

19           Q.     The three members rotate during the  
20      interviews?

21           A.     We do.

22           Q.     So there is a parole board member at every  
23      hearing?

24           A.     Correct.

25           Q.     But it is not necessarily the parole board

1 member that will be leading the hearing, for lack of a  
2 better word?

3           **A.     Correct. Now, traditionally if it's a**  
4 **victims case, the parole board member leads the**  
5 **hearing. Not always. If you have two or three victims**  
6 **cases in a day you ask the analyst to lead one.**

7           Q.     Following a hearing that you have appeared  
8 at or led, do you have -- ever have more in informal  
9 discussions with board members after the hearing about  
10 a decision to make on a specific case?

11          **A.     Occasionally. It's pretty rare. But you**  
12 **might. It may be, you have an offender who has a**  
13 **horrible offense, but they presented themselves very**  
14 **well; they've done a lot in the institution; and you've**  
15 **given them a release date. And you want to say why?**

16          MR. SPILLANE:   It's not really an  
17 objection, but I'm going to ask a clarification  
18 question. You said did she discuss it with other board  
19 members. I don't know if you meant other board  
20 members, or other board members of the panel?

21 BY MR. AULT:

22          Q.     Specifically other board members.

23               For example, other members that would not  
24 have been present during the parole hearing?

25          **A.     Yes.**

1           Q.     And that was your answer understanding the  
2       question?

3           **A.     Yes.**

4           Q.     Are there situations where a board member  
5       who is on a panel makes a certain suggestion, and the  
6       rest of the board doesn't follow suit and wants to do  
7       something else?

8           **A.     Yes. And we've always been told to vote**  
9       **your conscience. You know, that's the reason for a**  
10      **parole board. If we're all going to get together and**  
11      **decide that we need to go with one decision, then why**  
12      **have all of us voting?**

13           Q.     So it's not a situation where every  
14       decision made by the parole board is a unanimous  
15       decision?

16           **A.     No.**

17           Q.     Is that fair?

18           **A.     No. We have to have a majority.**

19           Q.     Gotcha.

20           **A.     But we often disagree with each other.**

21           Q.     Let me ask, my understanding, there are  
22       some cases that require a full board vote and some that  
23       do not; is that correct?

24           **A.     Well, give your definition of a full board.**

25           Q.     Well, why don't you tell me, how is a final

1 decision made. Who is it that makes the final  
2 decision? And does it change from offender to  
3 offender?

4           A. Well, we need to clarify what types of  
5 decisions. Because we make all kinds of decisions  
6 outside of parole hearings.

7           Now, if we're just looking at just parole  
8 hearings, I can tell you.

9           Q. Okay.

10          A. Parole hearings, it's going to be based on  
11 the type of offense, the length of offense, and the  
12 hearing panel.

13           For example, with the exception of drugs,  
14 any case, ten years or more, has to be a majority  
15 board. And that's not a full board. It's a majority  
16 board. So it depends on the number of board members  
17 you have.

18           So like right now, with six board members,  
19 majority board is four. And obviously if we disagree,  
20 then generally it ends up being a full board.

21           A or B offenses have to be majority board.

22           Any offenses involving death or children  
23 have to be majority board.

24           If the panel members split, and it could be  
25 a two-year C or D, but if we split, then it's going to

1      **be a full board -- a majority board.**

2            Q.     The juvenile life without parole cases, I  
3        assume are all majority board decisions?

4            **A.     They are.**

5            Q.     So a majority board decision, tell me how  
6        that works. The hearing panel is going to be made of  
7        three individuals, including a board member?

8            **A.     Yes.**

9            Q.     The information from that hearing then  
10       is -- certain information from that hearing is shared  
11       with the full board, correct?

12          **A.     Correct.**

13          Q.     And them a vote takes place?

14          **A.     Correct. And we have access to the  
15       recordings as well.**

16          Q.     And we'll get into that a little bit more  
17       later.

18            I believe you said that you've not  
19       conducted any hearings for juvenile life without parole  
20       cases?

21          **A.     No. I have not conducted the ones  
22       identified in this information.**

23          Q.     I see. I think you said that you voted on  
24       two of them, correct?

25          **A.     Correct.**

1           Q.     I guess my question is, why are there some  
2     that you voted on and some that you did not vote on?

3           **A.     Because the order of the rotation.**

4           Q.     I see. So --

5           **A.     You don't want the same board member voting**  
6     **all the time.**

7           Q.     I understand. And I understand that  
8     there's a rotation from board member to board member  
9     that changes periodically, correct?

10          **A.     Right.**

11          Q.     Let me make sure I have this  
12        straight, and tell me if I'm wrong. The file goes from  
13        board member to board member to vote. And as soon as a  
14        majority is reached, is the vote then complete?

15          **A.     It is.**

16          Q.     So that could explain why you didn't vote  
17        of some of them?

18          **A.     Yes.**

19          Q.     Thank you. I was scratching my head over  
20        that.

21                  Does your preparation -- strike that.

22                  Since you have not conducted any juvenile  
23        life without parole cases --

24                  MR. SPILLANE: I'm going to kind of object  
25        to the question. I don't think she said she hasn't

1 conducted any juvenile life's without, just not these  
2 four.

3 BY MR. AULT:

4 Q. I understand.

5 And let me be clear. Setting aside these  
6 four, looking at the boarder picture, have you  
7 conducted any hearings that were juvenile life without  
8 parole or Senate Bill 590 hearings?

9 A. I have.

10 Q. Did your preparation for those hearings  
11 differ from your preparation from what I would describe  
12 as a more traditional hearing?

13 A. No. They were both victims cases, so I  
14 received the information prior.

15 Well, actually, I have to change that  
16 answer. We received a large packet of information  
17 prior to the hearings from the offender's support  
18 people. Attorneys. And I did review all of that  
19 prior. And we often don't receive that large of a  
20 package prior, so it is a little different.

21 Q. So your review was the same, but the amount  
22 of information that you had in front of you was larger;  
23 is that fair?

24 A. Yeah.

25 Q. How many of these SB 590 hearings have you

1 conducted?

2           **A.** I think it's just been two. Don't quote me  
3 one that. Don't type me to that. I'm pretty sure it's  
4 just been two.

5           Q. And, Counsel, thanking for clarifying that.  
6 I would have walked right past that.

7           I'd like to go through all the roles in a  
8 parole hearing, who is there, what their roles are.

9           So it's kind of the next step of the  
10 deposition.

11          **A.** Okay.

12          Q. We've talked a little bit about IPOs. Is  
13 there any educational training requirement for IPOs?

14          **A.** They have a pretty significant requirement.  
15 I'd have to look at the job specification to tell you  
16 what the education requirement is. I would say most of  
17 them have a Bachelor's degree. I can't say all of them  
18 do.

19           They receive -- institutional IPOs actually  
20 receive departmental training on institutional  
21 procedure, constitutional law, interacting with  
22 offenders. You know, all of that departmental policy  
23 and procedure.

24           Then they received some additional  
25 probation and parole officer training. I can't tell

1       you how long that is. When I was an IPO, it was three  
2       weeks. It could be longer. I don't know.

3                 They receive training on what goes into a  
4       report. Salient factor scoring. Motivational  
5       interviewing.

6                 Q. How to create the reports?

7                 A. All of that information.

8                 They have regular training throughout the  
9       year.

10                They have to do defensive tactics.

11                If they carry a firearm, they have to do  
12       firearms training. They have a large training  
13       requirement. And actually Michelle Kasak, again, can  
14       speak to that.

15                Q. I believe you said IPOs, they don't serve  
16       on the three-member panel for parole hearings?

17                A. They do not.

18                Q. They may be involved if a victim or a  
19       victim's representative is present?

20                A. Correct.

21                Q. Do they have any role, for example, do they  
22       speak in the hearing? Or offer any --

23                A. They do not.

24                Q. -- information?

25                Are you aware of any feedback, or questions

1 or concerns from IPOs relating to the factors set forth  
2 in Senate Bill 590?

3           **A. I am not.**

4           Q. Where are parole files for juvenile life  
5 without parole offenders kept?

6                 Are there hard copies? Or are they  
7 electronic?

8           **A. There's electronic.**

9                 **As far as the hard copies, that would**  
10 **probably be a better question for Steve Mueller.**

11           Q. Okay. Are parole files for offenders that  
12 are sentenced to life without parole kept in a -- in  
13 some way that's different than offenders who aren't  
14 sentenced to life without parole?

15           **A. Not that I'm aware of. I think that files**  
16 **are all placed in the same location.**

17                 **The reason I said that, as far as**  
18 **Steve Mueller, I know that he's had to grab the files,**  
19 **and what have you, for releasing information and**  
20 **preparing for this case. So, but, outside of that, no,**  
21 **all our files would be the same no matter what the**  
22 **sentence is.**

23           Q. And I guess just to be clear, if, for  
24 example, an individual is sentenced to life without  
25 parole, I assume that person does not have a parole

1 hearing; is that correct?

2           A. They do not have a parole hearing, but they  
3 will have a file. Because we do have -- we have to  
4 look at the sentence and judgment paperwork to make  
5 sure that --

6           Q. And that file would be kept the same as  
7 somebody who is not sentenced to a life without parole?

8           A. Right.

9           Q. What sorts of documents are provided in the  
10 parole files themselves?

11          A. Well, that's kind of a hard question  
12 because of the transition between paper files and the  
13 electronic.

14           If I -- the electronic, you know, we've  
15 scanned all the paper files into File Bound. So what  
16 we have now is kind of called mini files, because  
17 you're supposed to be working off the File Bound.

18           Well, in File Bound, what traditionally was  
19 in our files before File Bound are the same. You'd  
20 have the face sheet. You'd have any sentencing and  
21 recommendation, or presentence report.

22          For some of our older cases, we actually  
23 have some psychiatric reports, from time to time, that  
24 came with sentencing documents.

25           We get the S & J's. Any parole hearing

1       **reports. Any special reports.**

2               **If they were on probation, any other field**  
3       **reports. Victims' information, as well as their**  
4       **delegate information. You know, 'cause victims can**  
5       **write in, but also their community support. Their**  
6       **family and friends can write in. So we have a section**  
7       **on that.**

8               Q. And that's what I was going to get at. If  
9       a victim or victim's representative makes a statement,  
10      that would be included in the parole file?

11             **A. Right.**

12             Q. And, for example, I think some of the  
13      parole files had poems that were written by family  
14      members of the victims. Anything like that that is  
15      shared would go in the parole file, correct?

16             **A. Correct.**

17             Q. And would the same be true for information  
18      provided by an offender?

19             **A. Yes.**

20             Q. And offender's family, for example?

21             **A. Yes. And an offender. Offenders write the**  
22      **parole board from time to time. So their information.**

23               **There's a section for victims. There's a**  
24      **section for the offender. And for the offender's**  
25      **family. So if a family member has written into, you**

1       **know, say we support release. If an employer, anyone**  
2       **writes in, that is maintained in the file.**

3                 Q.     That's helpful. I appreciate that  
4 explanation.

5                 Who's in charge of maintaining the file; if  
6 you know?

7       **A. I do not.**

8                 Q.     Are all board members able to access the  
9 parole files?

10          **A. We are.**

11          Q.     Is there anyone else, outside of board  
12 members, that has access to the files?

13          **A. Parole analysts would. Institutional**  
14 **parole staff would.**

15          Q.     I assume -- let me just ask: Does an  
16 offender ever have access to a parole file?

17          **A. They do not.**

18          Q.     Are you aware of any cases where an error  
19 was in a parole file?

20          **A. I have not. I'm not saying it doesn't**  
21 **happen; I'm just not aware.**

22          Q.     Can a victim or a victim's representative  
23 access the parole file?

24          **A. They cannot.**

25          Q.     And I assume the same would be true for an

1 offender's family or someone supporting the offender?

2 A. Correct. They cannot.

(Deposition Exhibit No. 4 was marked for identification.)

5 BY MR. AULT:

6 Q. Have you seen this document before?

7                   A. I have.

8 Q. And what is this?

9           A.     These are the additional factors to be  
10        considered for juvenile life without parole, and this  
11        is where we document those factors.

12 Q. Okay. When you say "additional factors,"  
13 is it your understanding that these are the factors set  
14 forth in Senate Bill 590?

15 A. Correct.

16 Q. Do you know who prepared this document?

17           A. I think I know. Actually, I'm just going  
18 to say no. Because I have an idea, but ...

19 Q. Okay. Did you receive in any instructions  
20 or guidelines when this document was created about how  
21 to use it?

22                   A. Just a general discussion that we were  
23 going to document these factors so that we were making  
24 sure that we were considering these factors and  
25 providing meaningful hearings and meaningful

1       **opportunities for juvenile life without.**

2           Q.     In the juvenile life without parole  
3     hearings that you conducted, did you complete this  
4     sheet?

5           A.     I might have marked on it. But it was --  
6     it is generally completed between the board member and  
7     the analyst.

8           Q.     Okay. So someone likely completed this  
9     sheet?

10          A.     Correct. And it's often we work together  
11     to make sure that we don't miss anything.

12          Q.     Are there any other documents like this  
13     that you are, or other members of the panel have  
14     started to use, since Senate Bill 590?

15          A.     No.

16          Q.     Is there a corresponding list of questions  
17     to ask, for example, related to these factors?

18          A.     No.

19          Q.     Did you receive any training on questions  
20     to ask, or certain methods that you could use to elicit  
21     this information during a hearing?

22          A.     Not specific to juveniles life without.  
23     Some of these things we could consider for everyone.  
24     What rehabilitation programs. What accountability.  
25     Their conduct.

1           **And so we, you know, that was part of our**  
2       **motivational interviewing, asking open-ended questions,**  
3       **so that we can elicit whether or not they accept**  
4       **accountability. So it wasn't specific to juveniles**  
5       **life without parole. Does that answer --**

6           Q.     It does. That's helpful.

7           I guess the information that goes on here,  
8       the information that you're eliciting, I assume some of  
9       that comes from the prehearing report?

10          **A.     Yes.**

11          Q.     Do you also endeavor to ask questions of  
12       the offender relating to these factors during the  
13       hearing?

14          **A.     Yes.**

15          Q.     When an offender that is a juvenile life  
16       without parole offender -- strike that.

17           Did those individuals have to apply for a  
18       hearing after Senate Bill 590 was passed?

19          **A.     I don't know the answer to that one.**

20          Q.     Okay.

21          **A.     I thought it was -- I thought it was**  
22       **automatic, but I don't know the answer.**

23          Q.     That's fair. And I'm sure there are other  
24       people we could talk to get a better answer for that.

25          **A.     Yeah.**

(Deposition Exhibit No. 5 was marked for identification.)

3 BY MR. AULT:

4 Q. Do you recognize this document?

5                   A.     I do.

6 Q. And what is it?

7           A.     It's -- I don't know where it was created,  
8       but it was a document that talked about parole hearing  
9       procedures.

10 Q. Do you know why it was created? Was it  
11 created as an educational tool, or training tool for  
12 board members? Or was it created for another party?

13 A. I don't know.

14 Q. I will represent that we've -- it seems  
15 like we've seen a few versions of this document. And I  
16 know at one time a version was sent to Mae Quinn, who  
17 was one of the attorneys for the plaintiffs in this  
18 action.

19 Did you have any role in creating this  
20 document?

21 A. No.

22 O. Okay.

23           A. It was sent to me. I recall reviewing it.  
24 I recall seeing a draft review. But I wasn't a part of  
25 actually preparing it.

1           Q.     If you look on the second page, I guess the  
2     fourth bullet down. It begins: The offender's  
3     delegate offer a statement.

4                   Do you see that?

5           **A.     Yes.**

6           Q.     And the bullet reads, "The offender's  
7     delegate may offer a statement on behalf of the  
8     offender, ask questions, and provide additional  
9     information that may be requested by the hearing  
10    panel."

11                  I just wanted to follow up one that. Do  
12    offender's delegates ever ask questions during a  
13    hearing?

14           **A.     Occasionally.**

15           Q.     What type of questions?

16           **A.     Questions about acceptable home plans.**

17       **Questions about what the offender can and can't do when**  
18       **they're released. Not very often. Sometimes how long**  
19       **is it gonna take to find out. But, no, they don't**  
20       **usually ask a lot of questions.**

21           Q.     It's typically related to a home plan or  
22     something that would take place after release?

23           **A.     Yes.**

24           Q.     I know one of the issues that has been  
25     raised in this litigation, or in corresponding

1 litigation, was about the right of an offender's  
2 delegate to ask questions, or correct the record that  
3 is shared.

4 Has that ever happened during any of the  
5 hearings that you have overseen?

6 **A. No.**

7 Q. Do you know whether it would be proper to  
8 do that?

9 A. **Generally, a delegate, no. It -- it**  
10 **depends on what they're correcting. I mean, that's**  
11 **just open ended. You know. If they're saying, no, he**  
12 **didn't actually flunk out of school at the eleventh**  
13 **grade, it was the ninth grade, sure. It just depends.**

14 Q. I've listened to a couple of the audio  
15 recordings of parole hearings --

16 A. **Yes.**

17 Q. -- in this case. And it seems to me that  
18 different board members generally follow the same  
19 structure, but they each handle a parole hearing  
20 slightly different.

21 A. **Yes.**

22 Q. Would you agree with that?

23 A. **Yes.**

24 Q. And would you agree that different board  
25 members have the right to do so, so as long as they're

1       staying within the statutes? For example, that they  
2       each may ask questions a little differently or may work  
3       through the process differently?

4              **A. Yes.**

5              Q. If you look the second full black dot  
6       there, "The hearing panel makes a recommendation after  
7       the hearing."

8                  Do you see that?

9              **A. Yes.**

10             Q. The next statement says, "This  
11       recommendation, a recording of the hearing, notes  
12       taken, and the supporting exhibits from all parties are  
13       provided to the rest of the board to use to come to a  
14       majority decision."

15              **A. Yes.**

16             Q. Am I understanding correctly that what's  
17       set forth there are the documents that are shared with  
18       the board members who have to make a majority board  
19       vote on the decision?

20              **A. Yes.**

21             Q. In situations like that, when you are asked  
22       to make a vote on a hearing that you did not conduct or  
23       attend, do you typically endeavor to review all of  
24       those materials?

25              **A. Yes.**

1           Q.     Do you listen to the recording of the  
2     hearing?

3           **A.     Very occasionally.**

4           Q.     Maybe if it's a close call, or something  
5     like that, you need more information?

6           **A.     Right. If I'm struggling with a decision.**

7           Q.     But you don't listen to every recording?

8           **A.     No.**

9           Q.     I imagine that would be fairly time  
10    consuming?

11          **A.     Correct.**

12          Q.     And there's no statute or regulation that  
13    says that you have to listen to every recording?

14          **A.     No.**

15          Q.     If you look at the third page, the sixth  
16    column, it says, "This will not be a retrial of the  
17    crime."

18          **A.     Correct.**

19          Q.     Do you know what that means?

20          **A.     Generally, we're looking to see how much  
21    responsibility or acceptance the offender is going to  
22    give us. But we're not going to go into all the  
23    different evidence that was presented and argue that  
24    back and forth. We want to know what actually  
25    happened. And we want the offender to take**

1       **responsibility for it.**

2           Q.    That makes sense.  There are some times  
3       where an offender maintains innocence, correct?

4           **A.    Correct.**

5           Q.    In a situation like that, is that held  
6       against the individual?

7           **A.    It's considered. I mean, we have to look**  
8       **at the fact that they were either found guilty in trial**  
9       **or they pled guilty. And we have offenders who plead**  
10      **guilty and still maintain innocence. So we have to**  
11      **look at they were found guilty of this offense.**

12           **And so, again, we're not retrying the**  
13       **offense. We're looking to see, they were found guilty,**  
14       **are they going to take responsibility for the offense,**  
15       **and can we parole them. It's not to say that if**  
16       **someone completely maintains innocence that we wouldn't**  
17       **parole them. I mean, we have before. And we would.**

18           Q.    Okay.  Well, if I can direct your attention  
19       to the previous exhibit, No. 4, the five factors from  
20       Senate Bill 590.

21           **A.    Yes.**

22           Q.    I've always been somewhat curious, and  
23       maybe you can help.  The third factor, "Evidence that  
24       the person has accepted accountability for the offense  
25       or offenses.  Except in cases where the person has

1 maintained his or her innocence."

2 I'm not sure how to ask the question. To  
3 me, that reads that board members should consider the  
4 acceptance of accountability, but that it should not be  
5 considered if the person maintains that he or she is  
6 innocent.

7 Would you agree with that statement? Or  
8 how do you consider it in making your decisions?

9 **A. That's my -- my interpretation is all of**  
10 **that should be considered.**

11 Q. And I guess that's what I'm trying to get  
12 at.

13 Are there situations, particularly with  
14 juvenile life without parole offenders, where the  
15 offender may say, maintain innocence, "I did not do  
16 it." And that you would consider that?

17 Let me rephrase that. You would hold that  
18 against the offender in some way in making a decision  
19 about release?

20 **A. I just don't know how to respond to that.**  
21 **Because it would depend on the case. It would probably**  
22 **depend on the official version. The information that**  
23 **we had.**

24 **I mean, if you had a witness that was**  
25 **there, and saw the individual shoot someone, you're**

1   **probably going to give a different weight. There's**  
2   **just too many factors that depend.**

3           Q. It sounds like what you're saying is that  
4    if an offender maintains innocence, but if your review  
5    of the underlying crime, the evidence that was  
6    presented at trial would lead you to believe that the  
7    offender was not innocent, you may consider that?

8           **A. You may consider that. That wouldn't keep**  
9   **you from a parole date.**

10          Q. Okay. I appreciate that. Thank you.

11           This may be difficult to answer. Can you  
12   give me a ballpark of how many hearings you complete in  
13   an average week?

14          **A. Maybe around 40. It is difficult, because**  
15   **it depends on the time of month, what have you.**

16          Q. Sure.

17          **A. There's actually a chart that shows the**  
18   **hearings we do. And the parole decisions. I mean,**  
19   **hearings aren't the only aspect of our job.**

20          Q. I assume that the length that each hearing  
21   lasts depends on a variety of factors, correct?

22          **A. It does.**

23          Q. Can you give me an estimate of the length  
24   of time that hearings may last?

25          **A. It can be anywhere from five minutes to an**

1       hour. I mean, occasionally we have an offender come in  
2       and tell you not-so-nice-language and leave. So, I  
3       mean, it could last five minutes, or it could last an  
4       hour or more.

5           Q.     I assume those are the quiet ones?

6           **A.     Yeah.**

7           Q.     Are there limits on the number of hearings  
8       that you as a board member can participate in in a  
9       given day or in a given week?

10          A.    No. There's a number that we try not to go  
11       above. And that changed recently. I think it's  
12       either -- well, I don't know. Steve Mueller could tell  
13       you.

14                There's a number that we try not to go  
15       above so that we can make sure that we have plenty of  
16       time throughout the day.

17          Q.     Let's talk about the in-person parole  
18       hearings. They're recorded, correct?

19          **A.     They are.**

20          Q.     Just audio recorded?

21          **A.     Correct.**

22          Q.     For the hearings that are done remotely, is  
23       there video that's recorded as well?

24          **A.     No.**

25          Q.     Just audio for those as well?

1           **A.     Correct.**

2           Q.     And all those audio recordings are saved by  
3     the parole board?   Or --

4           **A.     The analyst, yes.**

5           Q.     We talked a little bit about the protocol  
6     for parole hearings.

7                 Is there a separate protocol that sets  
8     forth juvenile life without parole or SB 590 hearings?

9           **A.     No.**

10              MR. AULT: I'd like to mark this next  
11     document as Zamkus 6.

12              (Deposition Exhibit No. 6 was marked for  
13     identification.)

14     BY MR. AULT:

15              Q.     And this document is titled analyst meeting  
16     minutes.

17              Do you see that.

18           **A.     I do.**

19              Q.     What is an analyst meeting?

20           **A.     It's a meeting held with all the parole  
21     analysts where they can discuss process and procedure.  
22     They discuss sometimes more of the technical aspects  
23     than we do in the parole board meeting.**

24              Q.     Do board members attend analysts' meetings?

25           **A.     On occasion.**

1           Q. I don't think you were there, but Mr.  
2 Dusenberg was there on this one?

3           **A. Yes.**

4           Q. On the first bullet point, if you look  
5 two-thirds down, prerelease worksheet. It says, "A  
6 prerelease worksheet will be completed for all other  
7 offenders." I just wasn't sure what that referred to;  
8 do you know?

9           **A. It's a worksheet that was developed. And I**  
10 **can't tell you the specific time frames. There's a**  
11 **certain amount of time, prior to an offender's**  
12 **release -- it used to be 14 months, again, don't quote**  
13 **me on that, because I haven't been an IPO for many**  
14 **years. It looks at the offender's home plan.**

15           **It looks at -- they update the salient**  
16 **factor score to see if it's gotten better or worse.**

17           **They look at any programs completed. Any**  
18 **conduct violations. It actually is something that is**  
19 **done often to see if we want to let the person out**  
20 **earlier.**

21           Q. Is there a different form used for juvenile  
22 life without parole offenders?

23           **A. No. They would go through the same process**  
24 **prior to release.**

25           **It's also a process to make sure if you --**

1 sometimes we give someone a release date, and they  
2 really act out, and, you know, get violations for using  
3 drugs, or what have you. Then we have to reconsider  
4 their parole date. I mean, it can be a positive or a  
5 negative, but it would be the same for all offenders.

6 Q. That document represents something with the  
7 initials BAS. I assume that's a board action sheet?

8 A. Yes.

9 Q. And I have copy I'd like to mark.

10 (Deposition Exhibit No. 7 was marked for  
11 identification.)

12 BY MR. AULT:

Q. Is this a board action sheet?

14 A. It is.

15 Q. Who completes the board action sheet?

16           A. It depends. I mean, generally, the person  
17 doing the interview starts out with it. But any of the  
18 hearing panel can add comments to it. We all can mark  
19 boxes on the bottom.

Once we've made our recommendation or our decision, this form goes to the other board members on majority cases, and then they can also add comments to this form.

24 Q. And their comments, I assume, go in the  
25 boxes where it says member 2, and 3, and so on?

1           **A. Not necessarily. Their decision will go in**  
2       **those boxes, but sometimes they write up here under:**  
3       **Hearing panel.**

4           Q. I understand. So what would a board member  
5       write in a box to indicate their decision?

6           **A. It depends. I mean, sometimes you write**  
7       **that the person interviewed very well. Or you write**  
8       **that the person took no accountability whatsoever. But**  
9       **it just depends.**

10          Q. Okay. And then I assume this board action  
11       sheet is used to determine or to make a final  
12       determination about release or grant parole?

13          **A. To document it.**

14          Q. That's a better term.

15           One other document I'd like to show you  
16       we'll mark as Zamkus 8.

17           (Deposition Exhibit No. 8 was marked for  
18       identification.)

19       BY MR. AULT:

20          Q. And I just wanted to show this to you,  
21       partly because it has your name on it. It looks like  
22       an email from you from May of this year --

23          **A. Uh-huh.**

24          Q. -- to Michelle Kasak. We've spoken about  
25       her earlier, correct?

1           **A.     Correct. I recall it.**

2           Q.     Okay. It looks like there are two  
3        documents that were attached to the email. One titled  
4        of questions to ask during an interview, and one titled  
5        parole hearing protocol May 26th, 2017. And those are  
6        the filings listed on the email itself.

7           Let me just ask this: Do you know why you  
8        sent this email to Ms. Kasak and Mr. Mueller?

9           **A.     I think it was aimed at helping provide  
10        consistency in helping as to training. You know, that  
11        was part of what I tried to do with the board as the  
12        vice-chair. It's not an assigned responsibility, but  
13        given my background, I do try and help other board  
14        members.**

15          Q.     The second page that says questions to ask  
16        during an interview, to assess barriers and strengths.  
17        Do you use a script like this when you are conducting a  
18        hearing?

19          **A.     I do not. And this one I did not develop.**

20          Q.     It looks like in the email you actually  
21        said some of these questions might not be too relevant?

22          **A.     Correct.**

23          Q.     The fourth and fifth pages, parole hearing  
24        protocol, did you prepare this document?

25          **A.     I didn't prepare it from scratch. None of**

1       **this stuff would I have prepared from scratch. It**  
2       **would be stuff that I would be offering input into.**

3                   **And to tell you what I specifically did,**  
4       **unless I have it in tracking somewhere, which, I mean,**  
5       **you would have that, I don't. In fact, I was looking**  
6       **for this document recently and couldn't find it.**

7                   Q.     There you go. Happy to help. I didn't  
8       have a lot of questions about it.

9                   I'd like to move on to talk about  
10      delegates.

11                  How many delegates are allowed for an  
12      offender at a hearing?

13                  **A.     One.**

14                  Q.     Does anyone communicate with the delegates  
15      before a hearing?

16                  **A.     I don't know the answer to that.**

17                  Q.     Do you, as the board member, ever  
18      communicate with delegates prior to a hearing?

19                  **A.     Occasionally they'll call in, if they're**  
20      **not be able to be present, and want to speak to the**  
21      **board member, just like with a victim.**

22                  Q.     Are the delegates for the offender limited  
23      in the topics that they can discuss during a hearing?

24                  **A.     We like them to stick to any changes**  
25      **they've seen in the offender. You know, progress made.**

1     **And their future plan.**

2                 I mean, 'cause they're there to show the  
3     support that the offender has to help them be  
4     successful upon release.

5                 And can I correct one thing? They're  
6     allowed to have one delegate present, but they're  
7     allowed to have anyone write in information or contact  
8     us.

9                 Q.     And the information that individuals write  
10    in on their behalf would go in the parole file?

11               **A.     Correct.**

12               Q.     The delegate that's actually present, like  
13    you said, oftentimes offers information about future  
14    plans, and I assume that would include employment or  
15    housing?

16               **A.     Yes.** And any kind of interior outer  
17    controls at the home. You know, if the person has  
18    problems, they'll often say, "This is a sober living  
19    environment. We won't allow drugs in our home." That  
20    kind of information.

21               Q.     I understand. You mentioned they can stick  
22    to changes seen in the offender or progress made?

23               **A.     Yes.**

24               Q.     I just want to inquire about that,  
25    particularly with a juvenile life without parole

1 offenders.

2 From the hearings that I've seen, a lot of  
3 these individuals have pretty sobering backstories, you  
4 know, as children. Would you allow a delegate to talk  
5 about the backstory? And, for example, to talk about  
6 abuse that occurred as a juvenile?

7 **A. We often do. Not too far, because we'd**  
8 **have the offender talk to us about that, and that's**  
9 **their information to share.**

10 You know, an offender may have their own  
11 reasons for not wanting to share. We generally aren't  
12 going to cut them off. I mean, if we see an offender  
13 kind of looking at them, we might. But, yeah,  
14 we -- we'll give them some area to talk there.

15 Q. That makes sense.

16 **A. We try not to be, like, heartless. You**  
17 **know. And that goes to our thought process as well.**

18 Q. I know there are procedures -- and we don't  
19 need to mark them and go through them -- but there are  
20 procedures that specify the role of the delegate and  
21 who can serve as a delegate, correct?

22 **A. Yes.**

23 Q. And are any of those statutory? Are there  
24 state statutes that spell out the role of a delegate?

25 **A. I don't know the answer to that.**

1           Q.     Is the delegate allowed to bring anything  
2     with him or her to the hearing?

3           **A.     No. Generally, they're not. Sometimes**  
4     **they bring a prepared letter, or prepared letters from**  
5     **other family members.**

6                 There's restrictions. This isn't by  
7     Division of Probation and Parole; this is by the  
8     Division of Adult Institutions. For safety, there are  
9     restrictions of what people can bring in and can't.

10          Q.     I understand. I've walked into  
11     correctional centers with my cell phone and made the  
12     cold walk back to the car more than once.

13                 Are delegates allowed to take notes during  
14     parole hearings?

15          **A.     They are now, yes.**

16          Q.     Has there been a change in policy?

17          **A.     There has. It was generally our**  
18     **understanding that these were closed, confidential**  
19     **meetings. And so I think there was an occasion, once**  
20     **or twice, where a delegate was not allowed to take**  
21     **notes. I have reminded delegates myself before that it**  
22     **is a closed, confidential meeting and those notes are**  
23     **for their work purposes only.**

24          Q.     Okay. It may have been my co-counsel that  
25     were involved in some of those.

1           **A. But generally most delegates don't come in**  
2       **wanting to take notes anyway. I mean, I don't know**  
3       **that we've ever had that question posed before, and so**  
4       **that's why it had to be discussed and determined.**

5           Q. Can attorneys or defense attorneys can  
6       serve as a delegate for an offender?

7           **A. They can.**

8           Q. Are defense attorneys treated any  
9       differently, or are there any special rules that apply  
10      to defense attorneys --

11          **A. No.**

12          Q. -- as a delegate?

13          **A. No.**

14          Q. They'd be treated the same as any other  
15      delegate?

16          **A. Correct. They're expected to make a**  
17       **presentation just like the other delegates would be.**

18          Q. Okay. I asked some questions earlier about  
19       the ability of an offender or a delegate to make a  
20       statement to correct something that's on the record.

21           I guess my question, is it up to the board  
22       member, or whoever it is that's conducting the hearing,  
23       to determine what to allow? What's out of bounds, as  
24       far as that goes?

25          **A. We try to have consistency. But you can't**

1 plan for every instance.

2 Q. Particularly with attorneys is my guess?

3 A. Right.

4 Q. Do you ever have individuals, other than  
5 the offenders themselves, or offender's delegates, that  
6 follow up with the board after a hearing?

7 A. We do. Well, and there are times when an  
8 offender will tell us something's not correct, and we  
9 will ask the IPO to research it. Or ask the relevant  
10 party.

11 But, yeah, the same goes for a victim.

12 Anyone can provide a written statement to us after the  
13 hearing. Because once the hearing is complete, the  
14 record's complete. The victims, we don't even let them  
15 continue at that point. If they hear something they  
16 don't like or they disagree with they're instructed to  
17 put it in writing.

18 Q. Okay. And if someone writes, be it an  
19 offender, delegate, a victim, a prosecutor, that  
20 information would go in the parole file, correct?

21 A. It would. And it would be shared with the  
22 board members that made the decision. So if you have  
23 seen a file, and something was written in and you see  
24 initials from the board members, that's what happened.

25 MR. AULT: Let's take another break.

1 (A break was taken.)

2 BY MR. AULT:

3 Q. Ms. Zamkus, we've talked about a few of the  
4 other rules.

5 Prosecutors oftentimes attend parole  
6 hearings, correct.

7 A. I wouldn't say often. Handful of times.

8 On occasion.

9 Q. They have the right to do so?

10 A. They do.

11 Q. Do you know who, if anyone, communicates  
12 with the prosecutors prior to the hearing?

13 A. I would say that would be the office of  
14 victims services.

15 Q. Do you know if any information is shared  
16 with prosecutors, like the parole file or prehearing  
17 report?

18 A. That would not be shared with them. I  
19 can't say what would be though. But we don't share  
20 that parole file with anyone.

21 Q. Okay. When prosecutors do attend the  
22 hearings, what is their role?

23 A. They're allowed to speak about the offense  
24 and whether they oppose or support release.

25 Q. Okay. Let me make sure I have that clear.

1                   The prosecutor can state during the hearing  
2        whether the prosecutor believes release is appropriate,  
3        or whether they would --

4                   **A. Yes.**

5                   Q. -- oppose release?

6                   **A. Yes. All parties are allowed to do that.**

7                   Q. Okay. My guess is prosecutors mainly offer  
8        testimony about the underlying crime; is that correct?

9                   **A. You know, it's hard for me to answer,**  
10        **because I think I've only had a prosecutor in once or**  
11        **twice.**

12                  The only time that I had a prosecutor, and  
13        that comes to mind, they described the offender within  
14        the community. The offender's activities. The  
15        offender's reputation. And the impact to the community  
16        when the offender was in the community. And then spoke  
17        about their desire for the offender not to be released  
18        back into the community.

19                  Q. I understand. Victims or victim's family  
20        members are allowed to attend parole hearings, correct?

21                  **A. They are.**

22                  Q. Does that happen very often?

23                  **A. Sometimes it seems like it's a lot. And**  
24        **sometimes it's not. Like, I've had two this week. But**  
25        **then I might go a month without one.**

1           Q.     Based on my review of the hearing  
2 transcripts or recordings it seems that victims or  
3 victim's representatives get the opportunity to go  
4 first?

5           **A.     They do.**

6           Q.     And --

7           **A.     Because they're not part of the hearing,**  
8 **they -- they're role is to make a statement. And they**  
9 **may be able to observe the hearing if they want to.**  
10 **But once the hearing starts, their part is done.**

11          Q.     I understand. So the victim or the family  
12 member comes in and makes a statement, and they can  
13 make that statement to the hearing panel, correct?

14          **A.     Correct.**

15          Q.     Is that statement made while the offender  
16 is in the room?

17          **A.     It depends on what they feel comfortable**  
18 **with. It's in the statute that they're allowed to make**  
19 **the statement with or without the offender present. If**  
20 **we're onsite, they can actually have a partition put up**  
21 **in the room. And then they're allowed to stay for the**  
22 **hearing or leave --**

23          Q.     Okay.

24          **A.     -- at the time of the hearing.**

25          Q.     The victim isn't allowed to address the

1 offender directly, are they?

2           **A. No. And they're given specific  
3 instructions on that.**

4           Q. And the reverse is also true, that the  
5 offender can't speak to the victim or the victim's  
6 family?

7           **A. Correct.**

8           Q. After the victim's statement is concluded,  
9 if they elect to stay for the rest of the hearing, they  
10 don't participate in that hearing in any way, do they?

11          **A. No. And we've occasionally had where  
12 they've get a little overboard on shaking their head or  
13 rolling their eyes and we'll instruct them not to.**

14          Q. Okay. If the victim or victim's family  
15 elects to, say, send in something, write something  
16 about the hearing, they have the ability to do that and  
17 it would be included in the parole file, correct?

18          **A. Yes.**

19          Q. The same as an offender or the offender's  
20 family could do so?

21          **A. Correct.**

22          Q. I see references to a victim advocate.

23          **A. Yes.**

24          Q. Does that ring a bell?

25          **A. That's someone who works for the office of**

1      victims services. Well, no. Actually, the victim  
2      advocate works for the prosecuting attorney's office.  
3      The victims services is there to support the function  
4      of the board mand make sure that the victims are  
5      notified, all of the documentation is uploaded into the  
6      file. They're actually clerical staff.

7            Q. So it's more an administrative role?

8            A. Correct.

9            Q. That the victim gets where he or she needs  
10         to be and has the information she or she needs?

11           A. And we work with them, because we let them  
12         know our expectations of the victims when they're in  
13         the room and we want them to communicate those  
14         expectations prior to the victim getting there.

15           Q. What happens at the conclusion of a parole  
16         hearing?

17           A. I can talk to you what happens for me.

18           Q. Yeah.

19           A. For me, the victim statement is made. I'll  
20         do the parole hearing. I'll give the delegate an  
21         opportunity to make a statement.

22           I'll offer the parole -- the other panel  
23         members an opportunity to make a statement or ask any  
24         questions. And once everyone's got their statements  
25         made, questions answered, I conclude it.

1                   **The delegate and offender are taken out**  
2                   **first. The victims are taken out next.**

3                   Occasionally, the victims will try to make  
4                   a statement at that point. I won't let them. Because  
5                   the record's complete.

6                   And that's, you know, that's why I tell  
7                   them, if you want to add something, you need to send in  
8                   a document so that that can be added to the record for  
9                   everyone to review.

10                  Q. So that agenda, would that be the same for  
11                  SB 590 hearings?

12                  **A. Yes.**

13                  Q. As for more traditional hearings?

14                  **A. Yes.**

15                  Q. So there isn't a change in the agenda just  
16                  because it's a Senate Bill 590 hearing?

17                  **A. Correct.**

18                  Q. How is the decision of the board conveyed  
19                  to the offender?

20                  **A. We actually, our parole file and decision**  
21                  **is given to a caseload manager, who then enters it into**  
22                  **the computer.**

23                  Once that decision is finalized, an analyst  
24                  reviews it, makes sure it was correctly entered into  
25                  the computer. And once that's done, the decision's

1       **finalized.**

2                  It electronically goes to whatever  
3       institution the offender's at. And the offender is  
4       called up into the institutional parole officer's  
5       office, and the IPO is to deliver that personally to  
6       the offender.

7                  Q.     When the IPO meets with the offender  
8       afterwards, if the news is not good news, let's say for  
9       the offender, can the IPO have a conversation about the  
10      hearing? Maybe what the offender could have improved  
11      upon? Maybe the IPO's suggestion for why a decision  
12      was a certain way?

13                 A.     **Limited. Because they're not in the parole**  
14       **hearing. And they don't necessarily know. But a lot**  
15       **of times you have an idea of what the issue is. Like,**  
16       **you've prepared the report, you've, you know, seen all**  
17       **the conduct violations. And when you talk to the**  
18       **offender you say, "Look, I'm not sure." But, you know,**  
19       **"I'm pretty sure that you need to quit getting**  
20       **violations and you need to get involved in more**  
21       **programs."**

22                 Q.     And that makes sense because the IPO does  
23       the prehearing report?

24                 A.     **Correct.**

25                 Q.     Does the offender know the recommendation

1       that the IPO makes in the prehearing report?

2           **A. They do not.**

3           Q.     Does an offender have any right to appeal  
4     the decision of the parole board?

5           **A. It depends on different factors. Type of**  
6     **case. Length of case. Whether or not it was a**  
7     **majority board decision. That should all be laid out**  
8     **in policy and procedure.**

9           Q.     How long does it usually take? Let's talk  
10    about a situation where there is a majority board  
11    decision, how long does it typically take from the date  
12    of the hearing, to the decision when -- to the date  
13    that the decision is conveyed to the inmate?

14          **A. We estimate it to be six to eight weeks.**

15          **Right now we're -- we've got six members so it's sooner**  
16     **than that.**

17          Q.     Is the process for reaching a decision  
18    among the board members different in juvenile life  
19    without parole cases as it is in traditional cases?

20          **A. Only in that we review and consider the**  
21     **additional factors. But, no, the actual process is not**  
22     **any different.**

23          Q.     Okay. Do board members ever, for example,  
24    have a meeting, formal or informal, to discuss a  
25    certain case?

1           A.     Occasionally. I mean, if you're really  
2 struggling with one. For example, if it would have  
3 involved a death -- I can't tell you if it was  
4 manslaughter, or murder, or what have you -- but I felt  
5 like the offender had done really well in certain  
6 areas. And I wanted to give him a date and I was  
7 really struggling with it. So I communicated that to  
8 my fellow board members, that I really wanted them to  
9 look at it, and vote their conscience.

10                 Because we have this discussion, it's not  
11 to say, "Do what I want you to do." It's to say, you  
12 know, "Back me up here and really consider this.  
13 Because I'm struggling with the decision."

14                 I mean, these aren't always easy decisions.  
15 I mean, when someone's taken a life, and you're letting  
16 them out into the community, it's not always an easy  
17 decision to make.

18                 Q.     It's a lot on your shoulders for sure.

19                 A.     Yeah.

20                 Q.     There's never a point, though, where the  
21 board would vote all at once by a show of hands or  
22 anything like that?

23                 A.     No. And we don't ask each other what your  
24 decision was. Now, obviously we're going to see it on  
25 the board action sheet.

1           **But, like, that case I just told you about,**  
2    **I don't know whether they gave them a date or not. It**  
3   **went to my fellow board members.**

4           **Now, I could go look it up. I'm busy**  
5   **enough that I don't go look it up. But we don't follow**  
6   **up to see, because we don't want anyone to feel**  
7   **pressure. I mean, this is really a system of checks**  
8   **and balances. This is really a system to make sure**  
9   **that we're making good, informed, thoughtful,**  
10   **meaningful decisions.**

11           Q.    In a majority board decision --

12           **A.    Yes.**

13           Q.    -- we've talked about the materials that go  
14   before a board member that has to make that decision.

15           Do those board members also have access to  
16   the computers to pull anything else they need to make  
17   the decision?

18           **A.    Yeah. We all have laptops. We can pull**  
19   **any information. If someone doesn't know how to do it**  
20   **the analyst is always there to help us.**

21           Q.    But the board members making the decision  
22   have access to the same information as the board member  
23   that actually sat in the hearing?

24           **A.    Yes.**

25           Q.    Are there any other screening instruments

1 used in making decisions that we haven't also  
2 discussed?

3           **A. Yes. There is the substance abuse**  
4 **assessment. It's called a SACA score.**

5           **There is, for women, they have a GRA. It's**  
6 **gender -- I can't tell you what it stands for. It's an**  
7 **assessment that looks at the different risks factors.**

8           **For sex offenders we have some other tools**  
9 **that we use.**

10           **And then the Division of Adult Institutions**  
11 **has some even more assessments that they utilize.**

12           Q. You mentioned, older cases, there may be a  
13 psych evaluation?

14           **A. Yes.**

15           Q. Is there ever a mental health assessment  
16 that is performed prior to a parole hearing?

17           **A. Well, I mean, not because of the parole**  
18 **hearing? But, yes, our mental health -- we call them**  
19 **mental health III and above -- those are the people**  
20 **that are actively seeing mental help.**

21           **They are going to have a sheet in File**  
22 **Bound that says what they're currently working on.**  
23 **What their treatment goals are. We don't have**  
24 **anything, like, protected health information, like,**  
25 **what their medication is. Now we put that in the**

1       **report, but that's also self-reported by the offender.**

2           Q.     Okay. Are there ever situations when --

3       let me strike that.

4           I know that we talked earlier to a

5       reference about hearings are not an opportunity to

6       relitigate or retry a case.

7       **A.     Correct.**

8           Q.     Is there ever a situation where someone, an  
9       eyewitness, for example, or a family member may try to  
10      present information in writing to the board?

11          For example, if an eye witness comes  
12      forward after someone's been convicted?

13       **A.     I don't know that that's ever occurred.**

14       **I'm not saying that it hasn't; I just don't know.**

15          Q.     You haven't -- you don't at least recall it  
16      happening in any of your hearings?

17       **A.     No.**

18          Q.     In the victim statements, oftentimes, from  
19      what I have reviewed, they make a statement about their  
20      desire not to allow this individual back into the  
21      community, for personal reasons, or for reasons of  
22      community safety.

23       **A.     Not always.**

24          Q.     Okay.

25       **A.     We occasionally have victims who say I**

1       **think this person should be given another chance.**

2           Q.     Okay.  Regardless of the victim's view, do  
3     those statements of the victims or victim's families  
4     play a role in your decisions?

5           **A.     We consider community opposition, yes.**

6           Q.     Would the same be true for statements made  
7     by prosecutors or law enforcement?

8           **A.     We put that all together as community  
9     opposition.  Yeah.  We consider it.  But we give  
10    decisions even when we have community opposition.**

11          Q.     I've seen a few statements, at least on  
12    the --

13          **A.     The board action sheet.**

14          Q.     -- the BAS, that there are a number of  
15    reasons for why parole may be denied, or why release  
16    may be denied, and one of them are circumstances of the  
17    offense.  What does that mean?

18          **A.     Um, it means that it's a particularly  
19    violent -- it can be a number of things.  But generally  
20    points to being a particularly violent offense, or an  
21    offense that harmed a lot of people.**

22          Q.     Okay.  Do you ever consider how much an  
23    offender has matured and changed from the time of the  
24    offense to the time of the hearing?

25          **A.     We do.  And sometimes even delegates speak**

1 to that. And we consider that as well.

2 Q. What kind of role does the educational  
3 programming -- I know there was a term we used earlier  
4 about positive activities that an offender takes while  
5 incarcerated -- what role does that play?

6 A. That plays a pretty large role for most of  
7 us.

8 Because, you know, an offender can do time  
9 a couple of different ways. They can do it just like  
10 they did it when they were in the community. Or they  
11 can try and use their time wisely. We give a lot of  
12 consideration to that.

13 You know, did they get their education  
14 while they're in there? Are they taking advantage of  
15 the program opportunities? Are they doing more than  
16 just hanging out with the guys in the housing unit?  
17 Are they getting involved in restorative justice? Are  
18 they doing a job?

19 We have some -- especially your life  
20 without people -- they've been on jobs for 15,  
21 20 years, and have a great work history. We consider  
22 all of that. And we do put a lot of weight into that.  
23 Because that speaks to a person's motivation, internal  
24 motivation, and change.

25 Q. I wanted to ask about how that plays into

1 decisions on juvenile life without parole offenders.  
2 Because, obviously, they've spent a significant period  
3 of time incarcerated, understanding that they would  
4 have no chance of release, and that all changed by the  
5 decision of the Supreme Court.

6                   Have you discussed, among board members or  
7 anyone else, the role that those educational  
8 programming, or opportunities that took place before  
9 they learned that they were eligible for parole, how  
10 would that factor in?

11                  **A. We find that a little impressive. We've**  
12 **commented on that before. That wouldn't even be just**  
13 **juvenile life without parole. We have some offenders**  
14 **who, through the appeal process, you know, adult**  
15 **offenders, through the appeal process, who now are, you**  
16 **know, didn't think they were ever gonna get out and now**  
17 **can get out.**

18                  **If we've seen that they were working**  
19 **programs, and staying out of trouble, and being**  
20 **productive, knowing that they would never get out,**  
21 **yeah, we find that impressive.**

22                  Q. One of the issues that's filled out is  
23 attitude. Obviously, you can -- it's subjective. You  
24 can tell something about a person's attitude during the  
25 hearing.

1                   Are there other factors that are taken into  
2 account to determine the attitude of the offender?

3                   **A. Well, I mean, programming is one factor**  
4 **that speaks to their attitude.**

5                   The contact that the institutional parole  
6 officer makes with staff. And occasionally we'll get  
7 letters from staff as well. I forgot about that.  
8 That's part of the file. Especially work supervisors  
9 will send us letters.

10                  The fact that someone's on work release, or  
11 they've held a premium job for a number of years, that  
12 all goes to attitude.

13                  Q. There's a lot of discussion about risk,  
14 whether an offender's high-risk or low-risk. This may  
15 be repetitive. What do you consider in making that  
16 determination?

17                  **A. A number of different ones. You know, how**  
18 **they -- if they've had supervision in the past. How**  
19 **well they did on it.**

20                  Their prior criminal history. You know, if  
21 they just committed crime after crime, that's going to  
22 talk about risk.

23                  Their age at the time. You know, I mean,  
24 research shows that some of your older individuals kind  
25 of just age out of the committing crimes. Not always.

1    We know older individuals who commit crimes. But  
2    research shows they're a little lower.

3                We consider, of course, their behavior in  
4    the institution. I mean, if they're still committing  
5    crime in the institution, I mean, they're at risk to  
6    re-offend.

7                We look at their community support.

8                Because if you don't have support, it's going to be  
9    harder for you to be successful in the community.

10              Q.    I know you have a background in sociology.  
11              Is that ever something you consider? For example, the  
12   neighborhood, the geographic location of where the  
13   individual's going to be living? Whether it's high  
14   crime or not?

15              A.    Not really. Because, you know,  
16   unfortunately a lot of our offenders come from those  
17   neighborhoods. We can't really hold it against them if  
18   they're going back into those neighborhoods.

19              We do try to motivate them, to be prepared  
20   for what they're going to see when they get back in  
21   that neighborhood. To start thinking about how they're  
22   going to respond to their friends when they want to  
23   come and party with them because they just got  
24   released.

25              But, I mean, if we considered that, we

1       wouldn't let a lot of people out.

2           Q.     Understood.

3                   Do you ever look at changed circumstances?

4       For example, if a juvenile who grew up in a high-crime

5       area, or grew up in an abusive environment, does that

6       kind of background -- the background that the

7       individual had during their childhood -- have an impact

8       on your determination of whether they are of low risk?

9       Or, conversely, whether you think they're high risk?

10          A.    I mean, we consider that as far as what led  
11       them to where they are in life. You know. We consider  
12       more, though, what their circumstances are going to be  
13       upon release.

14                   Are they going back into this abusive  
15       environment? Have they dealt with their abuse? Have  
16       they talked to mental health while they've been  
17       incarcerated? Have they done some of the programs  
18       aimed at addressing their poor decision-making in the  
19       past?

20                   I mean, I can't say that we don't consider  
21       how they grew up, where they grew up, what they went  
22       through. We're all human. And we wouldn't be doing  
23       this job if we didn't care about people and believe in  
24       their ability to change. So, yeah. I mean, yeah, we  
25       consider it.

1           Q.     I appreciate that. I've seen references to  
2 setback dates.

3                         What is a setback date?

4           A.     **That's a rehearing. That's a denial of**  
5 **parole and a rehearing. The offenders call it a**  
6 **setback.**

7           Q.     So if you have a hearing, and the  
8 offender's denied parole, is a rehearing automatically  
9 scheduled?

10          A.     **Yes.**

11          Q.     And does the time period between the  
12 current hearing and the rehearing change?

13          A.     **It can.**

14          Q.     And what is that based upon?

15          A.     **Different factors. I mean, if we have an**  
16 **offender that is nowhere near ready for parole, we're**  
17 **probably going to give him a five-year rehearing.**

18                         **But if we have an offender who we're right**  
19 **on the cusp, we're thinking they're getting close, you**  
20 **might set them for two or three years.**

21                         **We sometimes even have offenders who have a**  
22 **five-year sentence that we'll set for a re-hear. In**  
23 **that instance what we're looking for to see is that,**  
24 **generally, it's an offender who has had really poor**  
25 **conduct, and we want to give them an opportunity to**

1       **improve their conduct. To see if we can give them a**  
2       **better release date.**

3           Q.     So sometimes the -- there is not a set  
4       rehearing date based on any state regulations or  
5       statutes?

6           **A.     No. We can't go out any further than five**  
7       **years.**

8           Q.     Okay. Is it typically the board member  
9       that attends the hearing that makes a recommendation  
10      for the rehearing date?

11          **A.     Yes. Just like a release date. You know,**  
12       **we -- the hearing panel makes a recommendation. We can**  
13       **agree or disagree one that. And it goes to the other**  
14       **board members, and they can agree or disagree on that.**

15          Q.     For example, if the hearing body came back  
16      and said five years, you, as another board member, may  
17      be able to say, "I agree with your decision about no  
18      parole, but let's make it three years or four years?"

19          **A.     Correct.**

20          Q.     And, conversely, you could say no, make it  
21      five?

22          **A.     Correct. And we do that. We all have**  
23       **different backgrounds. And we look at different**  
24       **things. So that's why we have a board.**

25          Q.     If an offender has questions or concerns

1       about the parole process, what can they do to express  
2       those concerns, if you know?

3                     **A. What do you mean? Like, if they had**  
4       **questions or concerns about how the parole hearing was**  
5       **handled?**

6                     Q. Yeah. Say if they for whatever reason  
7       thought they didn't get a fair hearing, what would they  
8       do?

9                     **A. They could talk to the institutional parole**  
10      **officer.**

11                     **They could talk to the institutional**  
12      **supervisor.**

13                     **They can't send correspondence directly to**  
14      **the board. Their friends and family sometimes contact**  
15      **us.**

16                     Q. And whether they're sending correspondence,  
17       or friends and family are doing so, that's going to go  
18       into the parole file, correct?

19                     **A. It will.**

20                     Q. And do those pieces of correspondence ever  
21       get back to the board members that voted?

22                     **A. On occasion. Sometimes they're handled**  
23      **directly by a supervisor or our board operations**  
24      **manager.**

25                     Q. Okay. I've seen reference to an office

1       called constituents services.

2           **A. Yes.**

3           Q.     What is that?

4           **A. That's an office within our department. I**  
5       **think it's actually under the department director.**

6       **It's for anyone that can call about concerns. About**  
7       **anything. It can be concerns about a parole hearing.**  
8       **Concerns about the offender's medical.**

9           Q.     Okay. The board members themselves, you  
10      don't serve in the constituent services office?

11          **A. No.**

12          Q.     That was a bad question. I think I  
13      got -- it's essentially seems like more almost --  
14      customer service sounds like a bad way to describe  
15      it -- but they're working with individuals that have  
16      concerns?

17          **A. Yes. And they're trying to make sure that**  
18       **they get those concerns answered back to. Or at least**  
19       **get -- sometimes they do the research and give the**  
20       **answer back directly. Or sometimes they just get the**  
21       **person referred to the right area.**

22          Q.     One or two things I want to conclude with,  
23      and these may be more tender subjects. But one is the  
24      background involving Mr. Ruziscka.

25          **A. Yes.**

1           Q.     I assume you're aware of his resignation,  
2     and what I assume are the reasons behind his  
3     resignation?

4           **A.     Yes.**

5           Q.     And I assume you don't know the reasons  
6     behind his resignation, but you're aware of the  
7     investigation that was done?

8           **A.     Yes.**

9           Q.     Did you play a role in that investigation?

10          **A.    I did not.**

11          Q.     Were you ever interviewed related to  
12    the -- related to the investigation of inappropriate  
13    activity?

14          **A.    I was not.**

15          Q.     Are you aware of any investigations that  
16    have been -- or allegations that have been made about  
17    you in your capacity as a board member? Or any  
18    investigations?

19           MR. SPILLANE: I'm going to object.

20           If you have something more specific, I'll  
21    let her answer.

22    BY MR. AULT:

23          Q.     The reason that I ask is, there was a  
24    document that was produced about an issue that had been  
25    raised about your role as a board member, and so I

1       needed to at least ask about that.

2                     Are you aware of that?

3             **A. I am not aware of that. I was not aware of**  
4     **that before today.**

5             Q.     Okay. There hasn't been any interview or  
6     you haven't been involved in an investigation or  
7     anything like that?

8             **A. I have not.**

9                     MR. AULT: Let me look at my notes.

10                  (A break was taken.)

11                  MR. AULT: I think that's all I've got.

12                  MR. SPILLANE: I don't think we have  
13 anything.

14                  MR. AULT: Thank you very much.

15                  MR. SPILLANE: You can read the deposition,  
16 and if you believe there are any errors, you can send  
17 in an errata sheet, or you can simply waive signature,  
18 say that you don't want to look through it for  
19 typographical errors or what have you.

20                  THE WITNESS: Okay. I'll waive.

21                  (Signature waived.)

22

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## CERTIFICATE OF REPORTER

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3           I, Kim D. Murphy, Certified Court Reporter,  
4       for the State of Missouri, do hereby certify that the  
5       witness whose testimony appears in the foregoing  
6       deposition was duly sworn by me; that the testimony of  
7       said witness was taken by me to the best of my ability  
8       and thereafter reduced to typewriting under my  
9       direction; that I am neither counsel for, related to,  
10      nor employed by any of the parties to the action in  
11      which this deposition was taken, and further that I am  
12      not a relative or employee of any attorney or counsel  
13      employed by the parties thereto, nor financially or  
14      otherwise interested in the outcome of the action.

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20           Kim D. Murphy, CCR

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